

The

INSIDE STORY[®]

APRIL 2019

PART
TWO

of a two-part series

SELF-REGULATION OF HEALTH PROFESSIONALS

PAGE 2

WHAT'S UP...

Combatting misinformation about health...

Calls for a national electronic immunization system

Final budget before federal election tackles various drug issues

PAGE 9

What's
Inside

AND NOW FOR SOMETHING...

In episode 15 journalists Paul Benedetti and Wayne MacPhail discuss the schism that exists in the Canadian chiropractic community.

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COMPLETELY INDIFFERENT



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SELF-REGULATION OF HEALTH PROFESSIONALS

...DOES THIS GIVE US A FALSE SENSE OF SAFETY AND SECURITY?

When we last left off in part one of this two-part article (in the January/February edition of *The Inside Story*), our examination of what “regulated” in regulated health professional means revealed a self-regulation model where health professionals police themselves. We also learned that at the heart of this model is the stated goal of serving and protecting the public interest.

However, everywhere we turn—news stories, podcasts, documentaries—there are factual accounts of regulated health professionals (RHPs) who don’t seem to be working in the public interest. This got us thinking, does the fact that certain health professionals are regulated give us a false sense of security and safety? Let’s take a look at how well the regulators (typically called colleges) are doing at fulfilling their mandate to serve and protect the public.

Protect the public by shielding against harm

To recap from part one, the philosophy of the provincial governments is that any profession that could put the public at risk should be regulated. So once a profession is regulated, the mandate of each profession’s college is to serve and protect the public. Then if an RHP is putting the public at risk by not providing services in a safe, professional, or ethical manner, it’s up to their college to investigate and, when necessary, discipline the RHP. Examples of discipline include supervised practice, restrictions on what or how they practice, and suspension or removal of the right to practice. So just how effective are the colleges at policing their members and in turn, how good are they at protecting the public?

Reactive, not proactive

The main way that an investigation of an RHP is triggered is by a complaint, which could come from a variety of sources, such as patients, employers, or fellow RHPs. But this is reactive, rather than proactive; what if there are no complaints? For example:

- **Patients** may not feel empowered, or are fearful about making complaints. A study by McMaster University found that those less likely to make a complaint with a college are significantly older, disabled, and/or live in an economically deprived area or rural community.¹
- **Employers** of health professionals may also shy away from lodging complaints as a way to avoid human resources/union issues or to avoid bad publicity.

Self-regulation may in fact deter both of these avenues for complaints. Both groups may perceive a power imbalance—that the colleges “take care of their own” at the detriment of the complainant. Ironically, fellow RHPs—another avenue for complaints—could perceive the opposite. They might be hesitant to speak up because they feel it’s disloyal to colleagues—and that it could end up negatively impacting their own careers.

Although mainly reactive, the colleges do some quality assurance activities that are more proactive in nature. For example, the College of Physiotherapists of Ontario conducts practice assessments where members' actions are assessed against practice standards. However, the commitment is that members will be selected for assessment every 10 to 11 years.² Sounds like a long time for the public to potentially be at risk. Because self-regulation relies on the professions themselves to determine the credentials the RHP must have, could this lead to assumptions that quality is pretty much a given so assessment is not a priority? Or perhaps the way the self-regulation model is funded means there just aren't enough resources to conduct more regular assessments.

This touches another criticism of the self-regulation model as reported by the McMaster University study that "financing and funding of oversight bodies are not explicitly designed to optimize public-protection efforts."³ Colleges are financed by fees determined by the colleges and paid by their RHP members. This creates inconsistencies between professions, so colleges representing higher-earning professions—or a lot of members—could end up with more funds. In turn, this could potentially impact the college's ability to conduct more (or fewer) quality assurance activities.

SOME CASES SEEM TO GO ON AND ON... AND ON...



Ontario pharmacists overbilled the Ontario Drug Benefit (ODB), with estimates of over 100 pharmacies overbilling, sometimes for hundreds of thousands or even millions of dollars. But between 2013 and 2017, the college disciplined only 39 pharmacists for unsubstantiated ODB billing; only seven were charged with criminal offences, and only two convicted. And the kicker: discipline didn't necessarily stop the overbilling either at the same pharmacy or at another one owned by the same pharmacist.⁹

Nova Scotia pharmacist had her licence revoked this January—*finally*. Back in 2014, she stole thousands of benzodiazepines over five years by writing fake prescriptions and changing inventory counts. And while under investigation by the college, she submitted a urine sample that was not hers. Then in 2016, she ordered opioids, breaching conditions related to her 2014 discipline. And in 2017, she prescribed a drug that she is not authorized to prescribe to a patient that doesn't exist.¹⁰

Alberta pharmacist continued to work as a pharmacist for 18 months after being charged for sexual assault and unlawful confinement of a minor. As per the college's code of ethics, the pharmacist should have disclosed his criminal charges to the college, but he didn't. The only way the college found out about the charges was a year and a half later when the victim's parents filed a complaint with the college.¹¹



**THOROUGH
INVESTIGATIONS
AND DISCIPLINARY
ACTIONS**

So for argument's sake, let's assume that there is a complaint; could self-regulation lead to a conflict of interest whereby the college doesn't take action, or doesn't take action quickly because of self-interest like avoiding bad publicity? And even when a college investigates a complaint, what if discipline is essentially just a "slap on the wrist"? As a result, even when there is a complaint, could a health professional go on putting the public at risk indefinitely?

Falling through the cracks

Although an extreme example of harm done, let's take a look at Elizabeth Wettlaufer, the Woodstock, Ontario nurse who is currently serving a life sentence for the murder of eight patients, attempted murders of four others, and aggravated assaults of two more. Her crimes went undetected until she confessed in the fall of 2016.⁴

A public inquiry investigating how she was able to get away with the murders reports that ten of a total of 44 instances of making medication errors—and receiving discipline or warnings for incompetence—were reported to the College of Nurses of Ontario (CNO). The CNO said that this was not enough to spark an investigation regarding whether Wettlaufer was fit to continue practising.⁵

However, the college was involved back in 1995. Wettlaufer was fired from a hospital nursing position after she was caught high on drugs that she admitted to stealing on the overnight shift. The nurses' union grieved the firing and her employment record was amended to state that she had resigned of her own accord. The CNO placed restrictions on her licence for a year, and Wettlaufer agreed not to abuse any substances and to get help.⁶

Fast forward nine years to 2014—after having already killed seven of her eight murder victims—Wettlaufer was fired again, this time from a nursing home for giving a patient insulin meant for another patient. The home notified the CNO of the firing. The CNO didn't investigate Wettlaufer who went on to get hired at another nursing home, murdering another person and harming two others.⁷

Fortunately, there are examples of when complaints trigger thorough investigations and the resulting disciplinary actions seem appropriate for the magnitude of the issue. And things seem to be improving regarding what actions colleges are required to take by law.⁸



PROTECT AND SERVE THE PUBLIC INTEREST

Crime and punishment

Given today's increasingly low tolerance and heightened vigilance regarding misconduct by professionals—health or otherwise—especially regarding issues of a sexual nature, it's hard to understand why colleges don't necessarily notify the police and/or do not revoke the RHP's licence.

Case in point: The Ontario pediatrician who had a history of inappropriate sexual behaviour dating back to 1991 with discipline that only included things like short-term licence suspension and having to post a sign in the waiting room notifying patients that he can only see female patients and female parents/caregivers of patients in the presence of another registered health professional.¹²

Not that horrible cases have any true upside, but cases like this did help prompt change. In May 2018, amendments to the Ontario government's *Protecting Patients Act, 2017* came into effect which, among other things, expands the list of sexual abuse acts that require mandatory revocation of the RHP's licence by a panel of their college's discipline committee. In addition, RHPs must self-report any criminal activities to the college as well as whether they belong to other regulatory bodies—inside or outside of Ontario—and if they have any professional misconduct findings against them by another body.¹³

So continuing on with our analysis, let's assume that the colleges are in fact protecting the public. However, the mandate of the self-regulation model is not just to protect the public, but also to *serve the public interest*. How well are the colleges doing at serving the public by doing something good, ideally positively impacting health outcomes?

WHEN THE 'TIME' FITS THE 'CRIME'

Although the colleges have no say as to what police charges may come about, here are examples where the colleges conducted comprehensive investigations and found their RHPs guilty of major offences and in turn, enforced serious disciplinary action:

- **British Columbia massage therapist's** licence was revoked for a range of incidents including offering and drinking alcohol with a patient in a treatment room, having sex with a patient in a treatment room, and attempting to mislead the college's investigation by falsifying text messages from a patient.¹⁴
- **Alberta dentist's** licence was revoked for professional misconduct regarding a four-year-old patient who suffered permanent brain damage under the dentist's care, also was ordered to pay \$330,000 for the college's investigation.¹⁵
- **Ontario oncologist's** licence was revoked for having sex in the hospital with a cancer patient, as well as sexual activities when visiting the patient at home for treatment, also ordered to pay \$16,000 towards the patient's therapy and \$6,000 for the college's investigation.¹⁶

Not to just protect, but also to serve the public interest...

Regarding serving the public, each RHP has a scope of practice, which refers to the rules, regulations, and boundaries within which a qualified health professional with appropriate training, knowledge, and experience may practise in an area of health care.¹⁷ To become regulated (as discussed in part one), the scope of practice is defined by each profession, which is then approved by the government. But just because the profession says it can do certain activities or make certain types of decisions, should it be doing them?

For example, some Ontario naturopaths are now offering what are being referred to as “pampered Pap tests.” Pampered in that prior to the physical exam, in addition to having the naturopath’s undivided attention for questions and concerns, the patient is allowed to spend 10-20 minutes meditating and relaxing like they would at a spa. Then post-exam, the patient receives a cup of tea and possibly even a hand massage. At a cost of approximately \$100, naturopaths offering this service say that all this helps put patients at ease.¹⁸

Although performing Pap tests is within the scope of practice of naturopaths in Ontario, the medical community is concerned that the “pampered” version is not in the public’s interest. For example, when a Pap test is done by a doctor or nurse practitioner:

- Patients also receive a thorough health assessment that goes beyond just the Pap test—an assessment that’s outside a naturopath’s scope of practice.
- There is continuity of care because, based on the test results, doctors and nurse practitioners can diagnose and provide treatment; not so for naturopaths, all they can do is the test.
- Any necessary referrals are possible, for example, if needed, the doctor or nurse practitioner can refer the patient to a specialist, but no referrals can be made if the test is done by a naturopath.

WHEN TRANSPARENCY ISN’T VERY TRANSPARENT

Some critics of the self-regulation model think that it is too difficult to easily find out how the RHPs are performing—or not performing. For example, although colleges are typically required to publicly report certain performance measurement and management information, critics feel that the information is not consistently available and/or not easily accessible across professions. The public may have to dig through lengthy annual reports to find details like the number of activities the college does to address RHPs who aren’t adhering to professional standards.

Too many cooks in the kitchen?

Complicating the information-hunt issue may be that, in addition to the colleges, RHPs are often associated with a range of other organizations like professional associations, committees, and councils. This may cause confusion among the public regarding “who” is responsible for collecting data and publicly reporting performance information, and in turn, where to look for, and where to lodge, complaints.

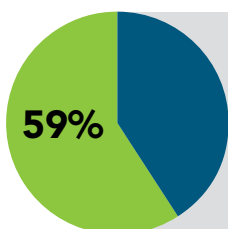
Who’s watching the ‘watch dogs’ and publicly reporting their performance?

And then there is the issue of transparency regarding the colleges’ performance. The emphasis of self-regulation has been on overseeing the RHPs’ performance, not on measuring or reporting their own performance as the oversight bodies.

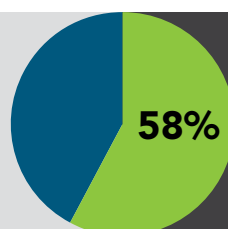
So if a main goal of self-regulation is to serve the public, aren't services that don't necessarily improve health outcomes a waste of time, energy—and money? Whether it's publicly funded health care or health benefit dollars, why spend on services that don't work? Increasingly scarce funds make it more important than ever that spending is reserved for only evidence-based services. However, figuring out what is truly evidence-based is getting harder than ever.

Misinformation overload

Today, the internet is typically the "go to" for health information. On one hand, patients are more informed than ever, but on the other hand, they may also be more confused. A recent survey found that 59% of the public are "not sure what is true and what is not."¹⁹ Similarly, another study found that only 27% of respondents say they are "very confident that they can tell when a news source is reporting factual news," and 58% feel that it is "harder rather than easier to be informed today due to the plethora of information and news sources available."²⁰



**ARE NOT SURE
WHAT IS TRUE
AND WHAT IS NOT**



**FEEL THAT IT IS HARDER
RATHER THAN EASIER
TO BE INFORMED TODAY**

Muddying the ability to accurately assess information is the use of technical scientific language. But here's the catch, many so-called "scientific interventions" referenced are not backed by science. RHPs appear to be using scientific lingo to help legitimize their services.

Unsubstantiated scientific claims are definitely not in the public's best interest on many levels. Like the experience of the Ontario mother who feels she was duped out of \$5,000 when she took her son to a chiropractor who claimed treatments could "correct his autism."²¹ Believing claims that have no scientific backing can also lead to dangerous decisions. For example, a study found that 40% of respondents believe that there are alternative therapies that can effectively cure cancer when there is no evidence supporting this. To the contrary, research shows that using alternative treatments for cancer is associated with poorer outcomes and survival rates.²²

From the colleges' perspective, making claims in advertising that are outside the profession's scope of practice is a definite "no no." When alerted to misinformation, the college will typically take action—but again, this is usually more reactive than proactive. Maybe limited resources are to blame for not being more proactive, or worse, critics of self-regulation might say that the colleges are simply turning a blind eye.

INCREASINGLY DIFFICULT TO DETERMINE FACT FROM FICTION

- The College of Naturopathic Physicians of British Columbia does not allow naturopaths to include anti-immunization information in their advertising. However, a B.C. naturopath's website included a long list of diseases—including scarlet fever, cholera, smallpox, polio, meningitis, influenza, and whooping cough—that can be prevented through "homeoprophylaxis." Basically, this is a so-called alternative to immunization that uses "nosodes," which are highly diluted substances made from diseased tissue, blood, pus, or other excretions from a sick person or animal.
- Analysis of the websites and Facebook pages of every registered chiropractor in Manitoba found dozens of examples of content that are contrary to scientific research and various public health policies. These included anti-vaccination literature and letters from chiropractors discouraging vaccination, plus an article claiming vaccines have caused a 200-600% increase in autism rates.²³

Keep self-regulation under the microscope

So to come full circle, how well is the self-regulation model doing at serving and protecting the public? You be the judge, but our vote would be that Canada be open to change, namely more robust oversight from outside the profession. Going back to the Globe and Mail article that sparked this two-part series—and as discussed in part one about changes in other countries—we'd suggest following suit. We could use more independent oversight to achieve more objectivity and less potential conflict of interest, and a model that is national—so more consistency across regions and across professions.



For more to mull over, take a listen to episode 15 of our podcast featuring a discussion with Globe and Mail reporters Paul Benedetti and Wayne MacPhail and understand the schism that exists in the Canadian chiropractic community. It is a cautionary tale on the limits of self-regulation.

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COMBATting MISINFORMATION ABOUT HEALTH...

New study reinforces measles vaccine does not increase the risk of autism

Findings from the study—*Measles, Mumps, Rubella Vaccination and Autism: A Nationwide Cohort Study*—show that the measles, mumps, rubella (MMR) vaccine does not increase the risk of autism; there is no association whatsoever. As a very credible, large, and long-term study, the findings provide additional scientific evidence to what is already considered a certainty by the mainstream medical community.

The study involved examining data from more than half a million people, specifically Danish children born from 1999 through to the end of 2010. The researchers used population registries to link information on vaccination status to autism diagnoses. Once again, research discredited the unfounded claim made by anti-vaxxers that there is a link between the MMR vaccine and autism.

Although researchers hope that additional scientific evidence will help curb uninformed decisions about vaccination—especially as measles has been spreading globally—they also feel limited resources might be better spent on pursuing important autism research rather than continuing to confirm that there is no association between MMR and autism. For more information, visit: <https://annals.org/aim/fullarticle/2727726/measles-mumps-rubella-vaccination-autism-nationwide-cohort-study>.

Appeals to Health Canada to stop approving unproven homeopathic products

Although homeopathic remedies claiming to treat a variety of ailments in children are approved for sale in Canada, Health Canada says they are not backed by scientific evidence. Accordingly, many doctors and health policy experts are questioning why the federal government continues to license these products. They feel that this seemingly nonsensical approach puts the public at risk.

For example, Health Canada has approved homeopathic products called “nosodes” for sale in Canada (for more on what nosodes are, check out our feature article). Nosode product labels must include that the nosode is not a vaccine or an alternative to vaccination, that it has not been proven to prevent infection, and that Health Canada does not recommend its use in children. However, Health Canada is currently investigating reports that some homeopathic and naturopathic practitioners in British Columbia are promoting nosodes as alternatives to vaccinations. Meanwhile, the scientific evidence is clear—including a 2018 study, *A randomized, blinded, placebo-controlled trial comparing antibody responses to homeopathic and conventional vaccines in university students*—that homeopathic alternatives have no immunization effect. This investigation prompted an official warning from Health Canada that homeopathic remedies are not substitutes for vaccines.

Calls for change are mounting that Health Canada needs to do more than just warn people about unproven homeopathic remedies, they need to stop approving them for sale. For more information, visit: <https://www.ncbi.nlm.nih.gov/pubmed/30352746>. And to see the Health Canada warning, visit: <http://healthycanadians.gc.ca/recall-alert-rappel-avis/hc-sc/2019/69260a-eng.php>.

CALLS FOR A NATIONAL ELECTRONIC IMMUNIZATION SYSTEM

What is referred to as Canada's patchwork of electronic health records regarding immunization status may also be leading to a lack of timely and/or accurate immunization information that potentially puts the public at risk. A proposed solution is that every time someone receives a vaccine, the information is automatically entered into an electronic immunization system that is easily accessible nationwide.

Although each region of Canada except New Brunswick and Nunavut (in progress) has an electronic immunization registry, regions follow different immunization schedules. This leads to variations in when immunization data is updated, and when families move, the records don't go with them. This makes it difficult to compare coverage from region to region and to flag areas where immunization may be low.

In addition, different regions have different immunization reporting requirements. For example, in every Canadian province and territory except Ontario, New Brunswick, and most recently, British Columbia, parents are not required to provide schools with their children's immunization records. This puts the public at risk because it doesn't provide an accurate reflection of the degree of immunization gaps. This was evident with the recent confirmation of measles at some schools in Vancouver. The regional health authority had no records of the vaccination status of about 20% of students. This made it difficult to confirm which students might be at more risk of catching the contagious disease. The B.C. Health Minister has now committed that by September, all parents will be required to provide immunization records before enrolling their children in school.

Although experts continue to call for a national electronic immunization system, health care is primarily the responsibility of the provinces and territories. Accordingly, there is the school of thought that a more realistic approach is to focus on linking immunization data between existing regional systems. For more information, see <https://www.theglobeandmail.com/canada/article-shot-in-the-dark-on-vaccinations-for-measles-and-other-diseases-data/>.

FINAL BUDGET BEFORE FEDERAL ELECTION TACKLES VARIOUS DRUG ISSUES

On March 19, 2019, the federal government revealed the 2019 budget, confirming a national pharmacare program. It does not indicate what form pharmacare will take; a universal, single-payor public plan or a gap-filling model in collaboration with public and private payors. However, the budget does recognize that employers consider drug plans an important tool to attract employees and promote workplace health and productivity. In addition, it acknowledges that private payors are concerned with the rising cost of medication and the sustainability of drug plans. The budget also introduces three drug-related programs:

- **National strategy on high-cost drugs for rare diseases:** To help Canadians with rare diseases access the drugs they need, the government proposes to invest up to \$1 billion over two years, starting in 2022-23, then up to \$500 million per year ongoing. This strategy is expected to eventually benefit private plan sponsors, as well as public drug plans, but not for three to four more years.
- **Canadian Drug Agency:** This new national drug agency will build on existing provincial and territorial successes and take a coordinated approach to assessing the effectiveness of new drugs and the negotiation of drug prices. It is expected that this could lower total drug spend in Canada by \$3 billion annually.
- **National formulary:** The new drug agency will create a comprehensive, evidence-based list of prescribed drugs created in partnership with the provinces, territories, and other stakeholders.

The Canadian Life and Health Insurance Association (CLHIA) has reacted positively to the budget: "The CLHIA is pleased with the budget's direction towards better coordination of efforts to reduce the high costs of medications that are putting pressure on private and public drug benefit plans alike."

For more information about the budget, see: <https://www.budget.gc.ca/2019/docs/plan/toc-tdm-en.html>. And for the CLHIA response, see: https://www.clhia.ca/web/CLHIA_LP4W_LND_Webstation.nsf/page/037BAB688B217FF1852583C10065A956!OpenDocument.

OUT & ABOUT... *Events not to miss*

Benefits and Pension Summit

April 17, 2019, The Marriott Downtown at CF Toronto Eaton Centre

<https://www.benefitscanada.com/conferences/benefits-and-pension-summit>

Ned Pojskic will be speaking on a panel for a session called "The first six months of legalized cannabis in Canada."

Dr. Clown Foundation's 12th annual Bal Imaginaire benefit gala

May 2, 2019, Marché Bonsecours, Montreal

GSC's president and CEO, **Zahid Salman**, is looking forward to being an honorary host for the Dr. Clown Foundation's 12th annual Bal Imaginaire benefit gala. The event supports the Dr. Clown Foundation's mission to support the incredible work of therapeutic clowns who bring joy, laughter, and imagination to the places and people that need it the most: hospitalized children, patients in general hospitals, and seniors in long-term care facilities.

2019 Calgary Benefits Summit

May 22, 2019, Fairmont Palliser Hotel, Calgary

<https://www.benefitscanada.com/conferences/calgary-benefits-summit>

2019 Vancouver Benefits Summit

May 24, 2019, Fairmont Waterfront, Vancouver

<https://www.benefitscanada.com/conferences/vancouver-benefits-summit>

At both of these summits, **Peter Gove** will speak about cognitive behavioural therapy (CBT), including how CBT works, how it differs from counselling, and about other evidence-based psychotherapies.

*April
Haiku*

Enough is enough
Time to consider a change
In regulation

FITBIT WINNER

Congratulations to **O. MOHAPATRA**, of **NEPEAN, ON**, the winner of our monthly draw for a Fitbit. Through this contest, one name will be drawn each month from plan members who have registered for Plan Member Online Services for that month.

Windsor 1.800.265.5615
London 1.800.265.4429
Toronto 1.800.268.6613
Calgary 1.888.962.8533

Vancouver 1.800.665.1494
Montréal 1.855.789.9214
Atlantic 1.844.666.0667

Customer Service 1.888.711.1119



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