WORKING TOWARD FAIR ACCESS IN THE REGULATED PROFESSIONS

Hon. Jean Augustine, PC, CM, was appointed as Fairness Commissioner for the Province of Ontario in 2007. Ms. Augustine was born in Grenada and came to Canada in 1960. In 1993, she became the first African-Canadian woman elected to the House of Commons, where she served for four terms. She served as Minister of State for Multiculturalism and the Status of Women.

ABSTRACT

In many regulated professions in Ontario, Canada, licensure is a precursor to employment. The Office of the Fairness Commissioner (OFC) has identified barriers to fair licensing in the professions, especially for people trained outside of Ontario or Canada. Three significant barriers are: Canadian experience requirements; the involvement of third-party agencies that assess qualifications; and the challenge for applicants to find accurate information. The OFC's strategy for continuous improvement and its monitoring of changes to the regulations covering professions have led to many advances. Barriers remain, and progress is slow, but there is reason for optimism.

INTRODUCTION

Canada and its provinces promote the immigration of highly skilled professionals. However, although the federal government is responsible for admitting these individuals into Canada, professional licensing falls within provincial jurisdiction. In other words, immigrants' education and work experience get them in Canada's door but don't get them a licence to practise. And immigrants wishing to be licensed here can face serious barriers. Federal and provincial governments have investigated this problem since 1984, when a federal Royal Commission looked at ways to promote equality in employment. A few years later, the Ontario government sponsored a task force to review all the rules and practices related to access to professions and trades to see if they had an actual or potential discriminatory effect on people educated outside Canada. The comprehensive review took more than two years. Other governmental, private sector and voluntary initiatives followed.

In 2006, all three major political parties in the Ontario Legislature passed the Fair Access to Regulated Professions Act (FARPA), and the Office of the Fairness Commissioner (OFC) opened its doors the following year. The OFC oversees the licensing practices of 40 Ontario regulatory bodies,[1] to ensure that the practices are *transparent, objective, impartial* and *fair*. These four principles were chosen to ensure that licensing will be free from bias and discrimination against individuals and groups, including applicants from other countries. The office is independent of the government and the regulatory bodies that govern the professions in the public interest. The OFC was the first agency of its kind in Canada and perhaps the world. Other provinces have since passed similar laws and created comparable oversight functions.[2]

The office has no mandate to advocate for individuals or address employment issues, but its work certainly affects them. In most of the professions currently monitored by the OFC, a person needs a licence to practise. These professions include architecture, dentistry, law, medicine, nursing, and many other significant lines of work.

The office has identified many barriers to fair licensing, especially for people trained outside of Ontario or Canada. This article focuses on three — requirements for Canadian work experience or practical training; the role of the sometimes invisible third-party agencies that assess qualifications for regulatory bodies; and the challenge for applicants to find accurate information — and outlines the office's overall approach to eliminating these and other barriers.

THE CURRENT PICTURE

The stakes are high. A perhaps surprisingly large number of people in Ontario are affected by licensing issues. And a significant percentage of Ontario's current professionals were originally trained outside of Canada. In 2010 (the most recent year for which there are statistics), there were 779,064 licensed professionals in Ontario, working in the private and public sectors, as employers and employees, in urban and rural settings, in one-person shops, large corporations and everything in between.

TABLE 1: New applicants to professions monitored by the Office of the Fairness Commissioner, 2010

	ONTARIO APPLICANTS	APPLICANTS FROM OTHER PROVINCES	U.S. APPLICANTS	OTHER INTERNATIONALLY-TRAINED APPLICANTS	APPLICANTS WHOSE TRAINING LOCATION IS UNKNOWN	TOTAL
Number	40,257	3,194	2,341	11,246	837	57,875
Percent	69.5	5.5	4.0	19.4	1.4	100

Source: Office of the Fairness Commissioner, "Number of Applicants to Regulated Professions" http://www.fairnesscommissioner.ca/en/highlights/quick_facts/number_of_applicants.php (2011).

About 14% — 109,366 — of these professionals were internationally trained.[3] The percentage of internationally trained applicants to the regulated professions in 2010 is even higher. Table 1 shows that, in 2010, regulatory bodies received 57,875 new licence applications. A total of 13,587 applicants, more than 23%, received their initial training in the U.S. or another foreign country.

The non-U.S. internationally trained applicants come from many different countries, including India, China, Saudi Arabia, the Philippines, the U.K., Australia, Bangladesh, New Zealand, and Jamaica. Thirteen regulatory bodies offer training in cultural diversity to their staff and/or council members.[4] Several bodies take advantage of a workshop about managing cultural differences offered regularly by the Ontario Regulators for Access Consortium, an umbrella group of regulatory bodies.

Unnecessary barriers to international applicants can have a grave effect on individual men and women whose lives and families are disrupted. It also has consequences for their community and for the province in which they reside. Removing these unnecessary barriers is essential.

THE CANADIAN WORK EXPERIENCE CONUNDRUM

Most applicants to the professions must provide evidence of work experience before they can get full licences (without conditions attached). This experience can take the form of practical training, an internship, a practicum, a period of mentorship, or even "active engagement" in their field. Although these experience requirements are often valid, they are often difficult for immigrants to meet. Their foreign work experience may not be valued, the recent recession has dried up opportunities for employment in Canada, and few regulatory bodies assume responsibility for work placements or for proposing alternatives that would enable applicants to gain the required experience.

In 2011, the OFC found that 26 regulators require work experience. Of the 26, 17 require Canadian experience and six[5] specifically require Ontario experience. Internationally trained applicants are often frustrated by requirements for Canadian experience. Most regulators have resolved to clarify what is needed, but not to lighten their requirements. For instance, the Engineering Technologists plan to develop an Employment Resources Fact Sheet to help applicants find work; the Land Surveyors intend to review their Field Note Assignment to ensure it reflects actual work experiences; and the Audiologists and Speech-Language Pathologists plan to develop procedures to help their mentors and applicants.

The Office of the Fairness Commissioner believes that regulators should be more proactive in helping applicants get work experience. If Canadian experience is essential, they should explain why. What precise competencies and skills are needed, and why must they be obtained here? Regulatory bodies should justify their requirements for Canadian work experience and explain them to the public.

The OFC is discussing this issue with individual regulators and with the Government of Ontario, which is responsible for regulations regarding the professions.

THE ROLE OF ASSESSMENT AGENCIES

We hear a great deal in the media and in the regulatory world about recognition of foreign credentials. Often commentators are referring to the activities of regulatory bodies, employers or governments. The role of qualifications assessment agencies is seldom acknowledged. These are third-party agencies that, for example, assess academic credentials, occupation-specific credentials, language, competency, prior learning, or degree equivalency, or that administer exams.

All but three regulatory bodies use such third parties to decide whether applicants meet the requirements to practise in a profession and base their licensing decisions on these assessments. The assessment of qualifications is the most critical part of the licensing process: it determines whether an individual may enter a profession, how quickly that entry occurs and the additional steps, if any, the individual must take before licensing can occur.

The regulatory bodies are legally accountable for the transparency, objectivity, impartiality and fairness of agencies they use, and the OFC merely monitors them. Nevertheless, in 2009, the OFC made recommendations to qualifications assessment agencies and regulators, to inform

dialogue between the two groups and remove inadvertent barriers. The OFC recommended that the agencies establish and follow clear assessment criteria, streamline procedures that are often costly or lengthy for applicants, and offer applicants more help. For example, agencies should help applicants get the documents they need, since the agencies themselves have reported that internationally trained applicants often have difficulty getting documents from abroad.

By 2010, progress was evident. For example, some regulators worked with their agencies to eliminate applicants' need to track down and submit identical original documents to both the regulator and the agency, a requirement that is often expensive and very difficult for internationally trained applicants. Other regulators and assessment agencies have entered into formal agreements to integrate processes.

In 2011, the OFC began a formal process to promote continuous improvement in the licensing practices of the regulatory bodies. This continuous improvement process has shed more light on the relationships between the regulatory bodies and the third-party agencies they use, and has yielded updated information about the barriers identified earlier. Initial information shows a recurring need for regulators to hold their third parties more accountable for fair assessments and transparent and efficient procedures. As a result, for example, the OFC has recommended that the regulators discuss Ontario's fair access law with their agencies, even if the agencies are national or international in scope, so that the agencies understand the legal situation in Ontario. Also, regulators can post information from or about their agencies on their own websites.

THE IMPORTANCE OF CLEAR INFORMATION FOR APPLICANTS

In 2010, the OFC published a pioneering research study called *Getting Your Professional Licence in Ontario: the Experiences of International and Canadian Applicants.* This was the first study of applicants' experiences ever conducted in Ontario, and it provided unprecedented and valuable insight into applicants' experiences in the licensing process. The research involved a literature review, an online quantitative survey, and five focus groups. Nearly 3,800 respondents participated in the study.

The study found that problems were widespread, and that there are common difficulties across the professions. Internationally educated people have a particularly hard time navigating Ontario's professional licensing system. Applicants commonly complained about insufficient information regarding the requirements for becoming licensed, websites that are difficult to navigate, unclear timelines, and staff who are unsympathetic or unhelpful in dealing with questions and concerns. Overall, the study revealed a system in which many applicants do not clearly understand the licensing process.[6]

Regulators have responded, and most are providing clearer and more complete information for their applicants. Nonetheless, in its new 2011 formal process for encouraging the continuous improvement of regulatory bodies, the OFC has identified shortcomings in the provision of licensing information in every assessment it has conducted so far. For example, it has recommended that the regulators:

- publish the fees involved for each stage in the licensing process
- create a new section called "Internationally Educated Candidates" on their websites
- modernize the interview stage through the use of communication methods such as Skype
- describe the time frames for each stage of the licensing process

The absence of current, accurate and clear information about all aspects of licensing is a significant barrier for some applicants. The OFC will continue to make recommendations for improvement in this area.

THE OFC'S APPROACH TO REMOVING BARRIERS

From its beginning in 2007, the Office of the Fairness Commissioner has wanted to achieve systemic change in the regulated professions. At the core of its approach is the conviction that lasting change occurs through continuous, incremental improvement. This philosophy benefits applicants, the professions and the province. The OFC's strategy for continuous improvement — its focus on assessment, recommendations, action, and monitoring — will bring about registration fairness in a systematic way. The approach encourages regulators to go beyond legalistic compliance and to take ownership of reform.

The strategy involves a two-year cycle where the OFC assesses licensing practices and makes recommendations for improvements. During the process, OFC staff members work with regulators to identify promising practices and to pinpoint reform that is meaningful and achievable. Many regulators are engaged and responsive, and are quick to implement the OFC's recommendations. All 35 regulatory bodies that are currently registering new members will be assessed by July 2012. At that time, attention will shift to action — implementation of recommendations — and monitoring. The next round of assessments begins in spring 2013.

In addition to its continuous improvement and assessment strategy, OFC is involved in other initiatives to help remove barriers. Two of these involve influencing the law, and sharing information among regulatory bodies.

As part of its mandate, the OFC monitors regulation changes proposed by the professions. This is an invaluable opportunity to provide input. Each regulated profession is subject to a provincial regulation that addresses its requirements, policies and practices for licensing. The OFC reviews proposed regulation changes for their impact on the transparency, objectivity, impartiality and fairness of licensing, and provides comment to both the regulatory body and to the appropriate government ministry.

The OFC has reviewed 30 regulations since August 2008 and has suggested many desirable amendments. Its interventions have resulted in changes such as the following, which have helped to reduce barriers to fair licensing:

- **Refinement of subjective terms** — For example, some regulators have refined terms such as "honesty," "decency" or "professional attitude" in the good-character requirements that an applicant must meet. Some others have kept those terms, but offer examples in their public documents to clarify the terms' meaning.
- **Greater flexibility in determining educational equivalency** — Some regulators had firm requirements for Canadian university degrees; they now accept degrees or educational programs that are substantially equivalent to Canadian degrees.
- **Fairness from the outset in new professions' regulations** — Five bodies for newly regulated professions will begin licensing within the next few years,[7] and they will avoid rigid requirements for Canadian or Ontario qualifications.

While the revision of regulations could be characterized as "business as usual," the regulatory landscape has changed dramatically, as national and provincial governments have modernized labour mobility laws to streamline the licensing of professionals across provincial/territorial boundaries. As a result, all regulations concerning the professions have been amended. The Ontario Labour Mobility Act, 2009, has helped to fast-track professionals from other provinces seeking licences in Ontario. The OFC is keeping a watchful eye to make sure implementation of labour mobility in Ontario aligns with fair access to professions for applicants from all jurisdictions. In most professions the new rules are working well.

Although regulatory bodies differ widely in their size,[8] history,[9] and resources,[10] they have many common concerns. The OFC is developing an online repository of information about the various bodies' licensing practices, so that regulatory bodies can learn from each other's experiences and best practices. The OFC will make this resource available to regulatory bodies, governments, immigrant-serving organizations and academics in late 2012, and to wider audiences in the future.

THE FUTURE

The focus of Ontario's fair access law is sharp. It concentrates on entry to the professions, rather than on the employment world. But fair licensing is a significant precursor to fairer access to the workplace.

The creation of the Office of the Fairness Commissioner was a turning point in improving the process for highly skilled individuals to get licences and work in their professions in Ontario. The office has identified problems that require its ongoing vigilance and action, and regulatory bodies have made progress over the last five years in making their licensing processes fairer and their requirements more reasonable. But more needs to be done. Removing unnecessary barriers through lasting institutional change is a meticulous process that is not accomplished quickly.

The vision of the OFC is a province where everyone who is qualified in a regulated profession can legally practise that profession. More fairness, accountability and clarity will help reduce any discrimination in the regulatory system. At its five-year mark, the OFC is optimistic about the future.

NOTES

[1] In Canada, a *regulated profession* is a self-governing profession that sets its own standards to protect the public. It is governed by a *regulatory body* (or *regulator*) that has legal authority to establish requirements for entry to the profession, membership, and use of the professional designation. The regulatory body determines standards of practice and competence. The authority of a regulatory body comes from a provincial statute.

[2] Office of the Manitoba Fairness Commissioner; Commissioner for Complaints Concerning the Recognition of Professional Competence, Office of the Professions, Province of Quebec; Skills and Learning Branch, Department of Labour and Advanced Education, Government of Nova Scotia.

[3] Office of the Fairness Commissioner, *Licence to Succeed: Annual Report 2010-2011* (Toronto: Queen's Printer for Ontario, 2011), 2-3.

[4] Office of the Fairness Commissioner, "Fair Registration Practices Reports" (2010). http://www.fairnesscommissioner.ca/en/about/current_projects/frp_reports.php.

[5] Architects; audiologists and speech-language pathologists; foresters; land surveyors; physicians and surgeons; psychologists.

[6] R. A. Malatest & Associates Ltd., *Getting Your Professional Licence in Ontario: The Experiences of Canadian and International Applicants* (Toronto: Office of the Fairness Commissioner, 2010).

[7] Homeopathy; kinesiology; naturopathy; psychotherapy and mental health therapy; and traditional Chinese medicine and acupuncture.

[8] The largest is the Ontario College of Teachers with 230,122 members; the smallest is the College of Dental Technologists of Ontario with 519.

[9] The oldest regulatory body is the Law Society of Upper Canada, formed in 1797; the newest body to license members is the College of Early Childhood Educators of Ontario, which began in 2009.

[10] The staff complement ranges from two to 478.

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Diverse Nations, Diverse Responses
Approaches to Social Cohesion in Immigrant Societies

Edited by Paul Spoonley and Erin Tolley

In the decades since the Second World War, immigration has reshaped the racial, ethnic, religious and linguistic diversity of many countries. This has contributed to complex and often antagonistic politics and regimes and, alternatively, to practices of inclusion or exclusion. While policies, programs, discourse and public opinion vary across countries, concerns about "social cohesion" are persistent and pressing and have only heightened in the wake of anti-immigrant politics and global economic insecurity. This volume includes case studies of immigrant-receiving countries in North America, Europe, Australasia and Asia, as well as several thematic chapters that draw attention to the practical issues that policy-makers confront when addressing immigration, diversity, and social cohesion. These chapters provide a rich overview of the historical, demographic and political forces that shape social cohesion, as well as a comparative analysis of the policy goals that have been pursued, the programs that have been implemented, the ways that social cohesion has been defined and measured, and the effects for immigrants, minorities, and host communities. The volume offers a cross-national conversation on approaches to social cohesion and will appeal to researchers, policy-makers and practitioners interested in immigration, diversity management, and the factors that affect policy choice, diversity, and outcomes.

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