

# Ontario's System of Health Professions Regulations: Accomplishments and Challenges

Trudo Lemmens, Scholl Chair Health Law  
and Policy

Kanksha Ghimire, Researcher  
Faculty of Law, University of Toronto

# Historical Background 1991 Ontario Regulated Health Professions Act

1980: Report Professional Organizations Ctee

- Concerns by HPs, MoH bureaucrats, public groups:

- System uncoordinated & outdated
- Restrictive for efficient use of HC providers
- Unfairly exclusive and hierarchical
- Unresponsive & unaccountable to the public, particularly in relation to complaints investigations and disciplinary process

# Health Professions Legislation Review 1983-1989

- Independent review Mandated by Minister Health: recommendations - draft legislation
- Consultations, hearings, submissions
- HPs invited to describe contributions to health care & exchanges between HPs about their respective submissions
- Draft-list 39 self-regulated prof's, finally reduced to 24

# Statutorily Regulated Health Professions

## Allied Health Professions

- 1. Medicine (physicians)
- 2. Nursing
- 3. Audiology & Speech-Language Pathology
- 4. Dental Hygiene
- 5. Dental Technology
- 6. Dentistry
- 7. Denturism
- 8. Dietetics
- 9. Medical Laboratory Technology
- 10. Medical Radiation Technology
- 11. Midwifery
- 12. Opticianry
- 13. Optometry
- 14. Pharmacy
- 15. Physiotherapy
- 16. Psychology
- 17. Psychotherapy
- 18. Respiratory Therapy
- 19. Chiropody & Podiatry
- 20. Chiropractic
- 21. Homeopathy
- 22. Kinesiology
- 23. Massage Therapy
- 24. Naturopathy
- 25. Occupational Therapy
- 26. Traditional Chinese Medicine & Acupuncture

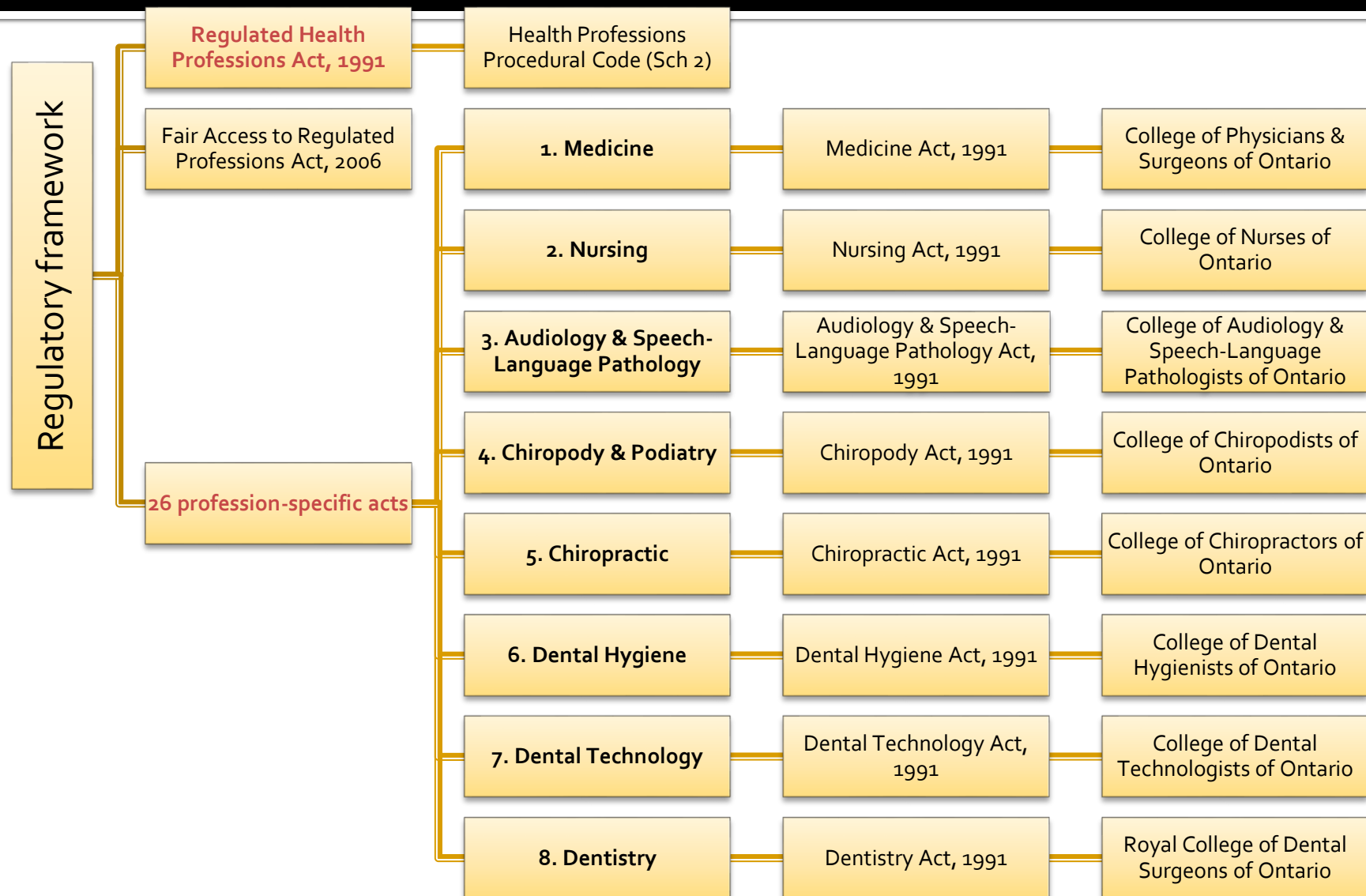
# Model: Self-regulation

- Regulation statutorily delegated from provincial government to health professionals
- Primary reasoning:
  - Recognition that professionals have specialized knowledge making them more adept at regulating
  - Need for public accountability and oversight

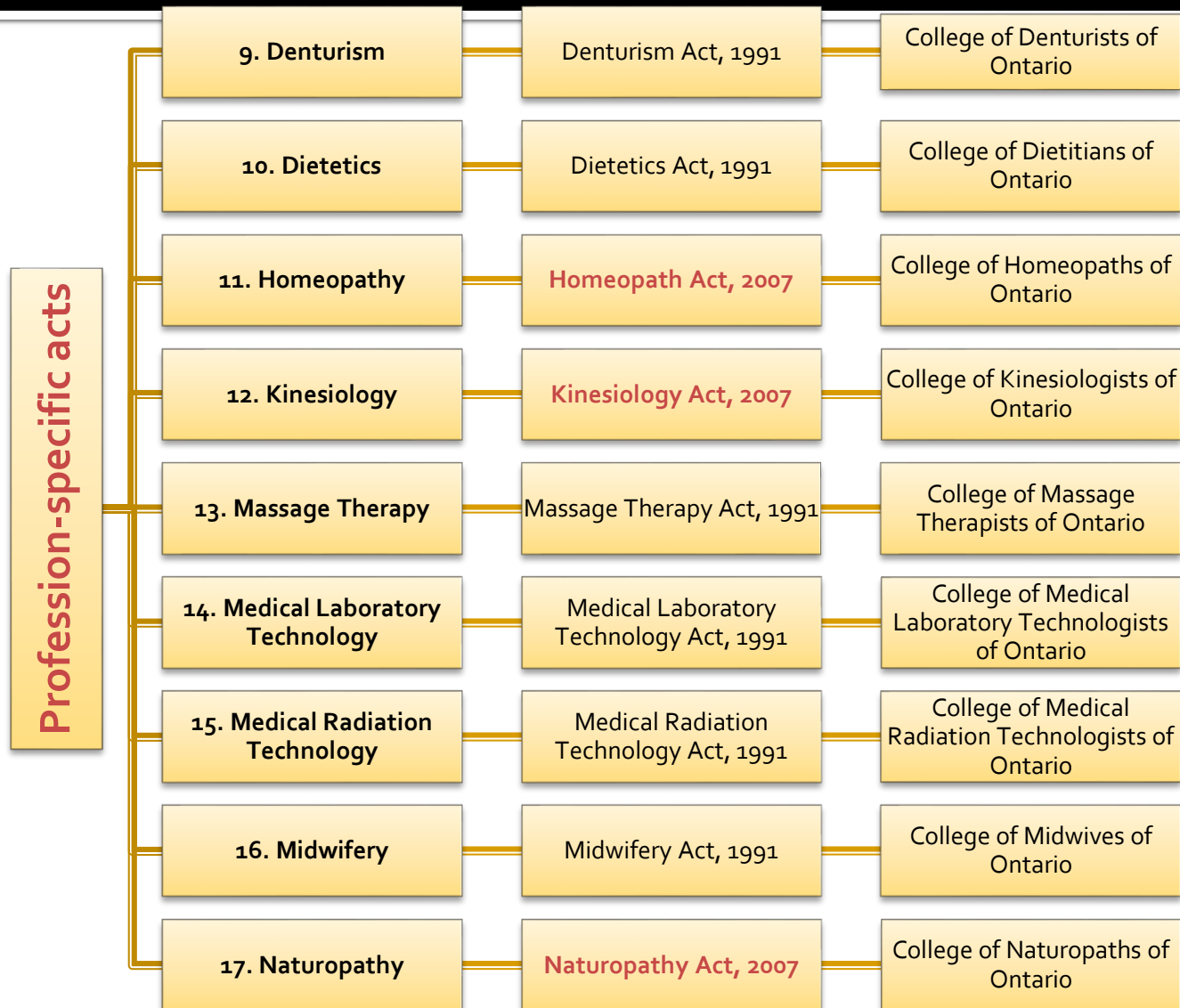
# Principles RHPA and Profession-specific Acts

- **Advancing Public Interest**
- **Protecting Public from harm & unqualified, incompetent or unfit providers**
- **Accountability of HCPs**
- **Patients' access to HCP of their choice**
- **Equality & consistency purposes, objects, duties, procedures.**
- **Treating individuals & HCP equitably**
- **Flexibility in role of professions & room for evolution of professions through broad scope of practice provisions**

# Legislation & Regulatory Colleges

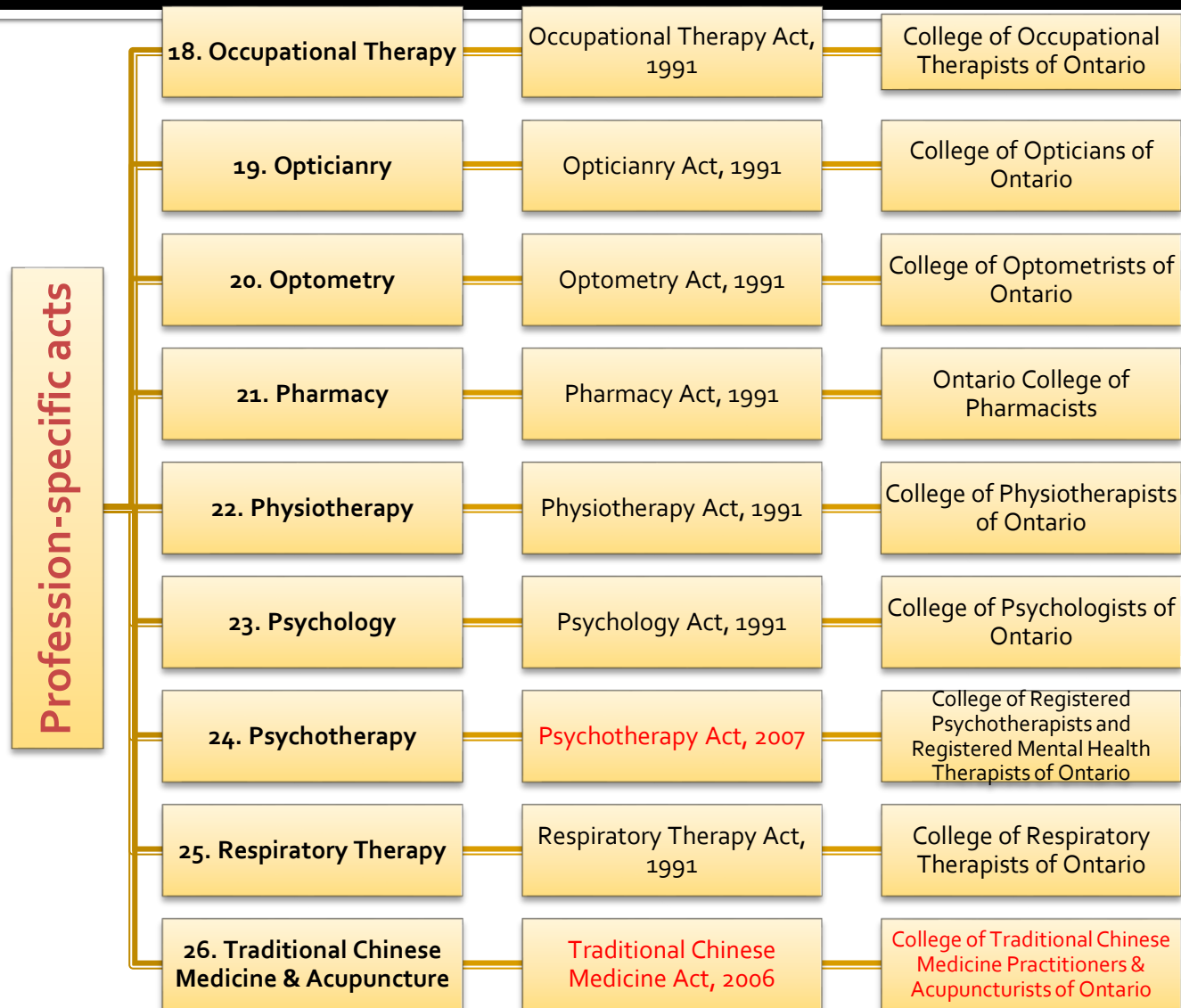


# Legislation & Regulatory Colleges





# Legislation & Regulatory Colleges



# Key Features Regulatory Scheme

## RHPA

- Scope of practice (general)
- Controlled acts
- Colleges
- Health Professions Regulatory Advisory Council
- Health Professions Appeal & Review Board

## Profession-specific Acts

- Standards of practice
- Investigation of complaints
- Disciplining of members
- College website provides public register of members

## Health Professions Procedural Code: Sch 2 of RHPA, embedded in each profession-specific Act

- Registering members
- Handling complaints
- Conducting investigations
- Carrying out disciplinary hearings
- Handling fitness to practice hearings
- Quality assurance programs
- Patient relations program
- Mandatory reporting
- Funding of victims of sexual abuse by members
- Appeal processes: registration & complaint decisions

# Regulatory Bodies

Ministry of  
Health and  
Long Term  
Care

Profession-  
specific  
Colleges

Health  
Professions  
Regulatory  
Advisory  
Council

Health  
Professions  
Appeal &  
Review  
Board

# How does a health profession become regulated?

## Health Professions Regulatory Advisory Council

- Independent advisor to the Minister of Health and Long-Term Care

## Research & consultations

- Written submissions, public hearings, focus groups, research projects and community meetings
- Feedback from public, community organizations, interest groups, health professional regulatory colleges & professional associations

## Principles

- Meeting public expectations for improved access to high quality and safe care
- Supporting inter-professional care and optimizing contribution of all health professionals
- Applying standards for regulation of professionals
- Ensuring shared accountability agenda that encourages and values collaboration and trust
- Using resources efficiently
- Sustaining the health care system
- Maintaining self-regulation

## Report to Minister for consideration

- Advise – a recommendation; not binding
- Report confidential till released by Minister

## If implemented, implementation upon directions of Govt

- May take years

# Decision-making and Appeal Process

## College

- Specific committees to deal with - complaints; registration matters; disciplinary matters

## Appeal by Complainants

- Appeal involving (a) complaints against professionals; (b) registration of members
- Complainants under (a):
  - Individuals and health professionals
  - College generally represented, but not a party

## Health Professions Appeal & Review Board

- Adjudicative body
- Board monitors activities of College Inquiries, Complaints and Report Committees; Registration Committees
- Provides a neutral forum for professionals and public
- Provides reasoned written decisions to parties and College

# Appeal Process

## 1. Complaint Review: decisions of Colleges' Inquiries, Complaints & Reports Committees

- Adequacy of investigations & reasonableness of Committee's decision
- Final written decisions are public documents
- Actions Board may take:
  - confirm all or part of Committee's order
  - make recommendations
  - require Committee to investigate further or make particular disposition (e.g. refer member to Discipline Committee)

## 2. Registration Reviews

- Confirm order
- Require Registration/Certification with or without conditions
- Refer back to committee for further consideration

# Challenges and Recent Controversies/Scandals

# Choice to regulate profession

- Not merit-based, but 'risk of harm' of unregulated practice
- BUT: is legal recognition of profession with questionable merit not itself a source of harm? What does it send as a message to the public?



# Ongoing issues of quality control & clarity information to public

- RCPS: certification of all physicians (exc. Family Physicians) 80 disciplines: 30 specialties; 35 subspecialties; 3 focused programs; 13 areas of focused competence
- CFPC: certification in Family Medicine + enhanced skills programs (emergency med; palliative care; addiction med, oncology, ...)

# Example: Cosmetic surgery

- History: serious problems (incl. death) unqualified physicians working as 'plastic surgeon'
- MOH & CPSO initiative:
  - Change RHPA: CPSO power to inspect out-of-hospital locations where anesthesia is used
  - Peer assessment of surgical procedures/competency
  - Review of Change of Scope of Practice policy: prohibition to use term 'surgeon' unless RCPS certification or specific CPSO standards
  - Information guide for the public CPSO website

# Forensic Child Pathology Ontario: Dr. Charles Smith scandal



## Mom exonerated in child's death after 25 years

CTVNews.ca Staff

Published Monday, February 29, 2016 7:06AM EST

Last Updated Monday, February 29, 2016 6:42PM EST

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## Judge slams Ontario's revered chief forensic pathologist over testimony in boy's death

*The judge found Dr. Michael Pollanen 'failed to properly prepare before testifying,' yet "expressed an opinion with certainty," and spoke beyond his expertise*

CHRISTIE BLATCHFORD

April 12, 2017  
7:27 PM EDT

Global  
NEWS

CANADA

February 29, 2016 4:53 pm

Updated: February 29, 2016 5:09 pm

## Dr. Charles Smith: 5 cases of the wrongfully accused

By Steve Morales

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Dr. Charles Smith sits on the stand as he waits to deliver testimony at the Goudge inquiry in Toronto Monday, Jan. 28, 2008. The trail of devastation left by a once acclaimed forensic

# Forensic Pathology

- Lack of formal requirements for forensic pathologist in Canada's certification system; critique of lack of attention by medical schools and by RCPSC
- Lack of enforcement standards

# Quality Control: Nurse Elizabeth Wettlaufer



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north america

## Elizabeth Wettlaufer: Confession of Canadian nurse who killed eight patients revealed

THE handwritten confession of a nurse who murdered eight patients has been released as an inquiry is told how authorities failed to act despite warning signs. **WARNING: Graphic**

Staff writers

News Corp Australia Network | JUNE 6, 2018 7:0



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News

## Wettlaufer was subject of complaints, allowed to go on working, inquiry hears

June 6, 2018

ST. THOMAS, Ont. – A nurse who killed elderly patients in her care was the subject of multiple complaints but was given a positive reference letter and went on working until she



Elizabeth Wettlaufer is escorted by police from the courthouse in Woodstock, Ont., Monday, June 26, 2017. Wettlaufer, a former Ontario nurse who murdered eight seniors in her care, was sentenced to life in prison with no eligibility for parole for 25 years.

Dave Chidley / The Canadian Press

# Transparency of regulatory sanctions other jurisdictions

MEDICAL DISORDER, PART 1

## BAD DOCTORS WHO CROSS THE BORDER CAN HIDE THEIR DIRTY SECRETS. WE DUG THEM UP

An unprecedented Star investigation reveals how doctors criss-cross the Canada-U.S. border while a broken system keeps secret the records of their crimes, malpractice and disciplinary rulings.

By Diana Zlomislic, Rachel Mendleson, Robert Cribb and Marco Chown Oved

Data Analysis by Andrew Bailey

May 1, 2018

MEDICAL DISORDER, PART 3

## REGULATORS EXPECT DOCTORS TO TELL THE TRUTH ABOUT THEIR PAST. HERE'S WHAT HAPPENS WHEN THEY DON'T

An unprecedented Toronto Star investigation reveals dozens of doctors licensed to practise in both the U.S. and Canada either lied about or failed to disclose their disciplinary or criminal histories.

By Robert Cribb, Rachel Mendleson, Diana Zlomislic and Emma Jarratt

Data Analysis by Andrew Bailey

May 3, 2018

News · Canada

» TORONTO STAR «

## This doctor has a spotless record in Alberta — but he's faced sanctions in 5 U.S. states

By **EMMA MCINTOSH** StarMetro Calgary

**MATT MCCLURE** StarMetro Calgary

Wed., May 2, 2018

# Procedural Issues

- Power-relations Medical Profession - patients
  - Regulatory colleges: professional domination
  - Complaints about transparency & information sharing
  - Role of the Canadian Medical Protective Association: insurance company physicians
- Health Professions Review and Appeal Board: limited basis of review.
  - Administrative standards (Dr. Srebrnjak case)

# Complexity of regulatory quality control w adverse events

- Various health professional colleges in charge of investigations: coordination problems (even if efforts to streamline process)
- Complexity overall quality control in health care setting: different statutory/regulatory regimes, accreditation systems, different regulatory & advisory bodies depending on type of health facilities, professions involved



# Conclusion

- Health Professions Regulation Ontario developed with public interest focus, but
  - Inherent tension because of professional self-interest and power relations remains an issue
  - Continued issues of transparency and public accountability
- Professional self-regulatory system complex, particularly also as a result of interaction with other regulatory regimes health care quality
- Controversies expose remarkable gaps in regulatory and control system health professional practice

# Thank You

[trudo.lemmens@utoronto.ca](mailto:trudo.lemmens@utoronto.ca)

Twitter: @trudolemmens