

Pan-Canadian Registration and Licensure of Health Professionals: A Path Forward Emerging from a Best Brains Exchange Policy Dialogue

Inscription et permis d'exercice pancanadiens pour les professionnels de la santé : une voie à suivre issue d'un échange Meilleurs Cerveaux



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Abstract

The regulation of health professions differs across Canadian provinces and territories, often resulting in an unstandardized approach to licensure and registration. These siloed regulatory frameworks hinder health workforce mobility and virtual care – with implications for patient safety and equitable access to healthcare – and pose a barrier to integrated health workforce planning. The authors report on a Best Brains Exchange policy dialogue held in October 2019 on pan-Canadian registration and licensure (CIHR 2019), highlighting leading practices and presenting a potential path forward through pan-Canadian regulatory mechanisms. Situating these findings within the context of the COVID-19 pandemic demonstrates the urgency for governments to move on this reform.

Résumé

Au Canada, la réglementation des professions de la santé diffère d'une province et d'un territoire à l'autre, ce qui entraîne souvent une approche non normalisée en matière de permis d'exercice et d'inscription. Ce cloisonnement des cadres réglementaires entrave la mobilité du personnel de santé ainsi que les soins virtuels – ce qui a des répercussions sur la sécurité des patients et sur l'accès équitable aux soins de santé – et constitue un obstacle à la planification intégrée de la main-d'œuvre. Les auteurs rendent compte d'un échange Meilleurs Cerveaux, tenu en octobre 2019, sur l'inscription et le permis d'exercice pancanadiens. Ils mettent en évidence les pratiques exemplaires et présentent une voie à suivre selon les mécanismes de réglementation pancanadiens. Dans le contexte de la pandémie de COVID-19, ces résultats font voir l'urgence pour les gouvernements d'aller de l'avant avec cette réforme.

Background and Policy Context

Professional regulatory bodies operate under the statutory mandate to protect public interest. In most Canadian jurisdictions, meeting the requirements to become registered with a professional regulatory body provides practitioners the authority to practise a specific profession within that jurisdiction. Because the regulation of health professions is considered to be the constitutional responsibility of the provincial and territorial governments, there are jurisdictional differences in regulatory approaches and practice requirements that have implications for patient safety, equitable access to care and workforce mobilization. These regulatory differences also complicate the provision of virtual care (Laverdière 2021; Oetter 2019) and translate into variability in health workforce data, which poses a significant barrier to integrated health workforce planning (Bourgeault et al. 2019).

In October 2019, the Canadian Health Workforce Network – in collaboration with the British Columbia and Yukon members of the Federal/Provincial/Territorial Committee on Health Workforce – co-organized a Canadian Institutes of Health Research (CIHR) Best Brains Exchange (BBE) policy dialogue on the topic of pan-Canadian licensure and registration of health professionals (CIHR 2019). The goals of this BBE policy dialogue were to explore leading practices from other federated jurisdictions that have implemented coordinated approaches, examine the unique Canadian context that may facilitate or hinder the implementation of these leading practices and identify the steps required to advance the dialogue around pan-Canadian registration and licensure (CIHR 2019). Participants included representatives from provincial/territorial regulators, pan-Canadian regulatory consortiums, provincial/territorial governments, Indigenous health professional organizations, health practitioners, researchers, pan-Canadian health organizations and other key stakeholders.

This paper highlights the insights generated from this BBE and presents a path forward for a unified pan-Canadian approach to licensure and a transparent single pan-Canadian register of health professionals. BBE participants stated that a *burning platform* would be required to catalyze this movement: the COVID-19 pandemic and the worsening health workforce crisis have now provided this burning platform.

Insights from the BBE

Promising international practices

THE UNITED STATES

Jean Moore from the Center for Health Workforce Studies at the State University of New York at Albany presented American practices. These include the National Practitioner Data Bank – a federally mandated database with information on malpractice claims and disciplinary action for certain health professionals (<https://www.npdb.hrsa.gov/>). Similarly, a national provider enumeration system provides unique identifying numbers linked to publicly available information such as provider name, practice address and license number. National registers exist for certain professions to verify credentials and practice privileges. There are also interstate licensing compacts that provide licence portability across certain states. Model of practice acts offer a point of reference for profession-specific scope of practice regulation.

AUSTRALIA

Chris Robertson from the Australia Health Practitioner Regulation Agency (Ahpra) presented on the nationally coordinated regulatory scheme that has been in place in Australia since 2010. The national scheme consists primarily of Ahpra (the national body responsible for administering the regulatory scheme) and 15 profession-specific national boards. Ahpra maintains a comprehensive national public register for over 769,000 health professionals (Ahpra and National Boards 2020). The online public register provides up-to-date information about the registration status of Australian health professionals, including any adverse findings made by the national boards. Australia-wide registration data are collected to inform health workforce planning, including supporting Ahpra's mandate to improve access to care for Aboriginal peoples. Ahpra also has significant research infrastructure that facilitates the use of its national dataset, enabling research that may help inform regulatory policy on a global scale.

Promising Canadian changes

THE CANADIAN FREE TRADE AGREEMENT AND CONSTITUTIONAL JURISDICTION

The *Canadian Free Trade Agreement* (CFTA; <https://www.cfta-alec.ca/canadian-free-trade-agreement/>) – a policy that came into force in 2017 as a follow-up to the *Agreement on Internal Trade* – was established to promote regulatory cooperation (CFTA 2015, 2017). The CFTA specifies that workers regulated in one jurisdiction should be recognized as qualified by other regulatory authorities without going through significant training, work experience, examination or assessment unless an exception applies. Pan-Canadian coordination of health professional registration and licensure would lay the groundwork for greater responsiveness to the CFTA.

Constitutional jurisdiction is often raised as a barrier to pan-Canadian licensure or registration, given the provincial/territorial authority over health profession regulation. However,

a recent case law from the Supreme Court of Canada paved the way for a pan-Canadian cooperative regulatory regime for securities, which also falls under provincial/territorial jurisdiction. In its decision, *Reference re Pan-Canadian Securities Regulation*, 2018, the Supreme Court unanimously upheld the constitutionality of a cooperative national securities regulatory regime. While this national scheme has since been put on hold, the Supreme Court’s decision provides support for the constitutional validity of a pan-Canadian approach to health profession regulation in Canada.

PROFESSION-SPECIFIC PRECEDENTS

Certain professions in Canada have made efforts to harmonize standards across provincial and territorial boundaries. At the BBE, Diana Sinnige, on behalf of the Canadian Alliance of Physiotherapy Regulators in Canada (CAPR), presented how CAPR has established a centralized portal for exams and licensing assessment, a pan-Canadian standard for entry to practice, a code of ethics adopted by 10 of 11 jurisdictions and a cross-border physiotherapy memorandum of understanding to facilitate access to physiotherapists through mobility and tele-rehabilitation (CAPR 2019).

Heidi Oetter, on behalf of the Federation of Medical Regulatory Authorities of Canada (FMRAC), discussed the FMRAC’s model standards for medical registration in Canada (FMRAC 2018) and the proposal for three licensure agreements to address the need for inter-jurisdictional mobility for physicians in the absence of pan-Canadian licensure: a locum or short duration license agreement, a fast-tracked licence agreement for physicians already licensed in another Canadian jurisdiction and a specific telemedicine licence agreement (Oetter 2019).

Identifying key principles and strategies to mitigate barriers

Participants in the BBE agreed that achieving unified pan-Canadian licensure and a transparent single pan-Canadian register could help address several key issues and benefit the public, regulators, governments and health practitioners. The discussion across workshop groups identified six key principles (Table 1).

TABLE 1. Key principles for moving to a coordinated pan-Canadian approach

Key principles	Description
Increasing public safety	<ul style="list-style-type: none"> • A single point for registration with a centralized publicly accessible portal for registry of regulated health professionals across the country to increase transparency and access to necessary information for the public to make informed decisions about their healthcare providers • Providers subject to restricted licences or disciplinary actions would be prevented from avoiding sanction – and potentially perpetuating patient harm – by changing jurisdictions
Greater regulatory efficiency	<ul style="list-style-type: none"> • Potential reduction of duplication of costs associated with disciplinary functions • Smaller jurisdictions and regulators with fewer registrants would benefit from harmonizing the work involved in the currently siloed task of maintaining their public registers
Integrated health workforce planning and responsiveness	<ul style="list-style-type: none"> • A single registration point could enable the collection of standardized data for more immediate and coordinated interjurisdictional responses to workforce issues and to inform planning for both the steady state and future public health crises

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Key principles	Description
Coordinated action on pan-Canadian healthcare priorities	<ul style="list-style-type: none"> Standardized data and approaches across professions and across provinces/territories could improve our ability to develop accurate integrated health workforce planning in priority areas, such as access to mental health services
Health workforce mobility	<ul style="list-style-type: none"> Standardized entry-to-practice requirements, scopes of practices and protected titles across Canadian jurisdictions and facilitated credential recognition
Pan-Canadian fee structure	<ul style="list-style-type: none"> Single Canadian registration fee with potential to increase equity between jurisdictions and improve cost-effectiveness for practitioners

Participants in the BBE also raised potential barriers or risks that may arise from moving to pan-Canadian registration of health professions. They also discussed strategies to help address these (Table 2).

TABLE 2. Potential risks or barriers of moving to a coordinated pan-Canadian approach and strategies to address these as identified by BBE participants

Potential risks or barriers	Strategies to address
Provincial constitutional jurisdiction over regulation of health professions	<ul style="list-style-type: none"> Look to the model of pan-Canadian cooperative regime for securities regulation, which the Supreme Court of Canada held as constitutionally valid in <i>Reference re Pan-Canadian Securities Regulation</i>, 2018 (similar to the Australian model for health professional regulation). Consider the federal government's role in pan-Canadian registration as part of supporting integrated health workforce planning. Consider a need for greater responsiveness to the CFTA.
Potential for reduced regulatory accountability	<ul style="list-style-type: none"> Consider the Australian model of accountability to ministerial council, which is composed of all jurisdictional health ministers. Develop a national oversight agency (step four in path approach described below).
Siloed mentality entrenched within governments, regulators or professions	<ul style="list-style-type: none"> Focus on risks inherent in status quo and the need for change to protect the public. Consider the reduced benefits of siloed reform measures without pan-Canadian cooperation. Ensure representation of stakeholders (e.g., federal and provincial/territorial governments, regulators, practitioners and public) in the steering committee as a pan-Canadian approach takes shape. Review international models for determining an appropriate funding mechanism for the body responsible for maintaining a pan-Canadian register.

Mitigating the risks of the status quo and overcoming the obstacles to reform are not insurmountable but will require careful planning and commitment, including involvement with representatives from various professional and public stakeholders. Participants noted that initial resistance to change might require a paradigm shift to align federal and provincial/territorial priorities and demonstrate that ensuring equitable access to health services and providers falls within the regulatory mandate of public protection.

A path forward for pan-Canadian registration and licensure

A potential path forward to achieve unified pan-Canadian registration and licensure was presented and discussed at the BBE by Richard Steinecke, a Canadian legal expert on professional regulation:

1. *Create a pan-Canadian database for sharing information between regulators:* All Canadian regulators would have access to this database, which would contain registration, complaints, discipline and compliance information on all registered health professionals.

2. *Develop a single pan-Canadian public registry:* This registry would provide consistent information about the regulatory history of health professionals. The registry would become an easily accessible source of information about health professionals for the public and a preferred alternative to less reliable social media sources.
3. *Impose automatic disciplinary restrictions:* This would mean that limitations imposed in one Canadian jurisdiction would immediately take effect in any other Canadian jurisdiction in which the health professional is registered. The current system of sequential discipline hearings in separate jurisdictions is costly and allows health professionals to avoid sanction through *jurisdiction-hopping*.
4. *Establish a pan-Canadian oversight agency for regulators:* This would be similar to the Professional Standards Authority for Health and Social Care in the UK, an independent body accountable to the UK parliament that oversees and evaluates health profession regulators in the UK (<https://www.professionalstandards.org.uk/home>). There already exists a trend within Canada to establish such oversight bodies. Anticipating this trend now – before multiple provincial and territorial oversight bodies are entrenched – will facilitate consistency of oversight and the development of pan-Canadian standards.
5. *Foster uniform registration requirements:* In addition to partially achieving the goal of establishing mutual recognition agreements set out by the CFTA, this initiative could bridge the remaining hurdles to essentially identical pan-Canadian standards and true mobility for practitioners.

To move this initiative forward, we anticipate the need for a collaborative funding model between federal/provincial/territorial governments and regulatory authorities, with a coordinated partnership between these and other stakeholders. We also suggest that the Canadian Institute for Health Information with its well-developed data governance arrangements would be a logical place for the pan-Canadian database to be housed.

The Burning Platform in Canada Provided by the COVID-19 Pandemic

Participants in the BBE highlighted the need for a *burning platform* to catalyze the necessary measures required for mobilizing a unified pan-Canadian approach to licensure and registration. The COVID-19 pandemic – and the worsening health workforce crisis – has become this burning platform. Within the context of the pandemic, pan-Canadian registration and licensure could have facilitated coordinated interjurisdictional strategies that align with the regulatory mandate to protect public interest as was seen in the international jurisdictions presented at the BBE. The variation in Canadian licensure and registration requirements has hindered cross-jurisdictional mobility and access to care, both virtual and in person, particularly in rural and remote communities (CADTH 2020; Laverdière 2021; Tang and Zhou 2020).

During the pandemic, American regulatory responses to the COVID-19 pandemic used the coordinated mechanisms presented at the BBE by, for example, increasing the transparency of information about health professionals on national registers to expedite assessment of

credentials by emergency response organizations (NCSBN 2020). Licensure compacts have also been instrumental in facilitating telehealth across state boundaries and other workforce responses (NCSBN 2021). In Australia, the national coordination of health professional regulation and national health workforce data were key to a nimble pandemic response, including the creation of the national short-term pandemic sub-register, which was then extended to ensure coordinated vaccination workforce mobilization (Australian Government Department of Health and Aged Care 2021; Robertson 2021).

Some changes are also notable in Canada. The FMRAC approved a statement on fast-tracked licensure in February 2021 but has since suspended activity on telemedicine licensure and license portability agreements (FMRAC 2021). The FMRAC's virtual care working group is (at the time of writing) focused on updating its Framework on Telemedicine to reflect a post-pandemic environment, anticipated to be released in early 2022 (FMRAC 2021). Nursing regulators in Canada also began making progress on interjurisdictional registration. In mid-2021, the College and Association of Registered Nurses of Alberta and the Saskatchewan Registered Nurses Association developed a memorandum of agreement to facilitate cross-provincial nursing practice (CRNA 2021). Nursys Canada, also under development, is slated to begin as a pilot between the College of Nurses of Ontario and the British Columbia College of Nurses and Midwives, creating a Canadian version of the National Council of State Boards of Nursing's centralized system to track nursing registrants nationally (NPAC 2021).

The pandemic has demonstrated the capacity to change in the presence of a critical threat to public health. Despite concerns around constitutional responsibilities for health professional regulation as discussed in the BBE, the response to the COVID-19 pandemic has demonstrated the federal government's important role in mobilizing a pan-Canadian approach to regulatory reform. Collaborative approaches initiated by the Canadian and provincial/territorial governments and regulators helped increase the health workforce capacity in response to the pandemic. While these measures facilitated certain health workforce responses, many are time-limited emergency measures. Strong federal and provincial/territorial political leadership is required to provide the momentum needed to overcome initial resistance or inertia and propel political will to move forward on pan-Canadian reform.

Conclusion

Various regulatory responses have become evident as the scale of the global COVID-19 pandemic and its impact on the health workforce became clearer (Bourgeault et al. 2020). The pandemic has also underscored the capacity of many nations to expedite health workforce reforms to respond to emerging public health crises that challenge patient safety and accessibility (Gruben and Czarnowski 2020; Gupta et al. 2021; Julia et al. 2020). At the time of writing, regulatory frameworks in various Canadian jurisdictions were undergoing legislative reform, and interjurisdictional registration was being piloted by single professions in certain provinces. Rather than continuing down the path of these patchwork responses, now is the

time for a pan-Canadian reform. Building on leading practices within Canada and internationally will help develop the necessary infrastructure to proactively respond to current and future health workforce challenges. Potential benefits resulting from cooperative pan-Canadian regulatory approaches include increasing patient safety, facilitating health workforce mobility, improving access to telehealth or virtual care, supporting data collection for integrated health workforce planning and achieving cost savings through improved regulatory efficiency. The COVID-19 pandemic has crystallized the importance and timeliness of these implications. The insights garnered from the BBE policy dialogue provide a path forward to create a unified pan-Canadian approach to licensure and a transparent single pan-Canadian register that would be in the interests of the public, governments and regulators to pursue.

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Declaration

Richard Steinecke's law firm acts for numerous professional regulators and national umbrella organizations of regulators.

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