



# UPSTREAM MANAGEMENT SOLUTIONS

## GOING UPSTREAM NEWSLETTER

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### JORDAN'S THOUGHT FOR THE MONTH: Staying focused on Public Interest

Two recent news stories of note in the Canadian regulatory landscape occurred this past month. First, the Alberta government introduced Bill 13, *The Regulated Professions Neutrality Act*, which, aims to protect the free expression rights of regulated professionals in the province by preventing professional regulatory bodies from punishing or sanctioning members for their political or social views expressed outside of their professional duties.

The second is the Ontario Ministry of Public and Business Services and Procurement's November 28<sup>th</sup> placement of the Real Estate Council of Ontario (RECO), a delegated administrative authority, under administration due to its mishandling of the [iPro Realty Ltd. scandal](#), which involved a \$10 million shortfall in trust accounts.

The last time the Ontario government took over a profession regulator was the College of Denturists of Ontario from March 2012 until February 2017, arising from an operational review and audit by PricewaterhouseCoopers (PwC) that uncovered numerous serious shortcomings and significant deficiencies in the college's practices, procedures, governance, and decision-making processes.

Without passing judgment on the work of these two entities and the relevant facts, as a general observation, if your provincial government has to intervene to address a regulatory problem (either from under- or over-regulating practice) involving one or more regulated professions, it means that those regulators have failed in their roles as effective, impartial, and efficient regulators in the public interest, and possibly a lack of regular dialogue between the regulator and their provincial ministry overseeing them.

How do we ensure that we are self-managing the balances in public interest? Can we trust ourselves to be fully impartial? Where are the necessary checks and balances, and early warning systems before things go too far off the rails? Should we reexamine whether regulators should still run professional liability programs? Should we develop a consistent national policy for all profession regulators with respect to "off duty" social media use and activities and how complaints from non-clients are to be treated?

It goes without saying that public, not private (member) interest must be uppermost in the mindsets and decisions of your Council or board of directors. But how to enforce and maintain that? That's the \$64,000,000 (adjusted for inflation) question.

Some of this may be a governance issue, with both behavioural and structural dimensions. In terms of Council/Board behaviour, it's easy to say in hindsight that using Right Touch Regulation, a proportionate principles-based approach to public harm risk assessment, may provide some of the preventative solution, if risks are correctly identified and assessed, and more importantly, they are made public. Continuous training and reinforcement of Public Interest helps. Respecting your legal officer's advice and recommendations would also help. However, a Council or Board can still choose to override public interest by majority vote.

Then there are structural preventative solutions to lessen the likelihood of adverse behavioural decisions by your Council/Board. One solution may be to replace elected members of your board with provincially appointed ones (LGAs), or at least strike a 50-50 balance, and some colleges have boldly gone in these directions. Should the President/Chair be appointed by the provincial government? Should your President or Chair have a public interest "veto" of adverse Council/board decisions? Would inviting your Ministry representatives to attend and speak at your Council/Board meetings help?

Aside from the Governance arena, public transparency may make the difference. As U.S. Supreme Court Justice Louis Brandeis said in 1913, "the best disinfectant is sunlight". Regulators must be willing and able to present and to subject their regulatory decisions based on evidence and risk to public scrutiny. Having transparent and fulsome discussions with your organization's stakeholders as partners may also help avoid these nightmare scenarios and to stay focused on the public interest path. There is always a tendency for "profession capture" by the registrants' private interests, especially by elected members of your Council/board and statutory committees, so broadening your stakeholders to include registrants' clients, suppliers, insurers, etc. may reduce this impact. Finally, frequent, frank and honest discussions with your Ministry oversight representatives may also help to provide some public perspectives.

In summary, public interest protection is something that must be continuously monitored and maintained, using a variety of inputs and controls, including Council/board governance (behavioral and structural), communications, stakeholder engagement and government relations.

## **2025 REGULATORY WRAP-UP**



We present our first annual **Regulatory Wrap-up** of major regulatory changes or news items in 2025 affecting the entire Ontario profession regulatory sector (for brevity's sake, I did not include a complete list of all changes made by all Ontario regulators this year).

Not surprisingly, labour mobility issues were front and centre. The Ontario government rolled out its latest changes for internationally-

educated applicants under the *Fair Access to Regulated Professions and Compulsory Trades Act*, (O.Reg. 261/22), which came into effect on July 1<sup>st</sup> which applied to all regulated professions by:

- Reducing the regulator's timeframe for a registration decision of a complete application from six months to three months;
- Adding a requirement for regulators making information publicly available about the required documentation of qualifications and reasonable alternatives;
- Requiring regulators to create a policy that addresses reasonable alternatives to required documentation; and
- Requiring regulators to create a plan for how multiple registration processes will take place concurrently.

For domestic applicants, on September 1, 2025, the Ontario government [announced](#) further measures in its efforts to remove interprovincial barriers for Canadian workers coming to Ontario. This included new regulations ([O. Reg. 199/25: Deemed Certification](#)) (Deemed Certification Regulations) under the [Ontario Labour Mobility Act, 2009](#). Set to come into force on January 1, 2026, the Deemed Certification Regulations will allow certain workers who are already certified to practice a regulated profession in another Canadian province or territory to begin working in Ontario within 10 days of submitting prescribed applications, once credentials and requirements are confirmed by the regulators. This is frequently referred to as "as of right" registration.

For more detailed information on these, see this summary from Blake, Cassels & Graydon LLP:  
<https://www.blakes.com/insights/ontario-introduces-legislative-changes-to-increase-interprovincial-mobility-for-regulated-profession/>

And finally, in late November, the Ontario government appointed an administrator for the Real Estate Council of Ontario. An independent audit, conducted by the law firm Dentons Canada LLP, raised serious concerns about RECO's organizational culture and its ability to restore public confidence. The Ontario government subsequently appointed an administrator to take control of RECO to prevent further harm to the public and consumers, and dismissed the Board. For more information, go to <https://www.reco.on.ca/ipro/information-and-latest-updates-on-ipro>.

There are also some initiatives underway that will likely play out in the New Year. In October, the Ontario Ministry of Health announced consultations on several policy proposals designed to expand the scopes of practice for specific regulated health professionals, with the goal of improving system efficiency and supporting better health outcomes for all Ontarians. The health professions involved are dental hygienists, denturists, speech language pathologists, optometrists, physiotherapists, chiropractors, chiropodists, and psychologists. The consultation materials were posted on the government's Regulatory Registry for comment (which closed on November 25<sup>th</sup>) as follows:

- [Proposed changes to scopes of practice for several regulated health professions to support greater access to diagnostic imaging](#)
- [Proposed changes to optometrists' scope of practice](#)

- [Proposed changes to certain psychologists' scope of practice to advance access to certain mental health services in Ontario.](#)

Finally, in 2026, changes to the Ontario *Employment Standards Act* brings major shifts, especially for job postings: employers with 25+ staff must list pay ranges (max \$50k difference, exempt over \$200k), disclose AI use in the hiring process, ban Canadian experience requirements, and state if it's a real vacancy, plus inform interviewed candidates of hiring decisions within 45 days.

Then there are some changes in other provinces and countries that are significant and could find their way to Ontario in the future.

In **Alberta**, in mid-November the government introduced Bill 13, *The Regulated Professions Neutrality Act*, which, aims to protect the free expression rights of regulated professionals in the province by preventing professional regulatory bodies from punishing or sanctioning members for their political or social views expressed outside of their professional duties. The government views the bill as a necessary response to concerns that some regulators were overreaching their authority by monitoring and penalizing the private, off-duty speech of their members. The most high-profile case was Dr. Jordan Peterson's prosecution by the College of Psychologists and Behaviour Analysts of Ontario.

In **British Columbia**, professional regulation is continuing a major overhaul with the new *Health Professions and Occupations Act (HPOA)*, set to replace the old HPA on April 1, 2026, aiming to reduce colleges through amalgamation and improve public protection, leading to new bodies like the College of Health and Care Professionals of BC (CHCPBC) and the new Complementary Health Professionals college, with ongoing work to finalize new bylaws and harmonize standards before the full implementation, reducing 22 colleges to 6. (see <https://www2.gov.bc.ca/gov/content/health/practitioner-professional-resources/professional-regulation>) We will be watching to see how things progress, as it could provide a precedent for similar projects in other provinces and territories.

Looking overseas, the **Profession Standards Authority** in the **United Kingdom** unveiled its latest update of **Right Touch Regulation** in October 2025, which added a Lines of Defense Model and 7 new Ways of Working for regulators: Collaborative, Efficient, Focused on equality, diversity and inclusion, Fair, Evidence-led, Anticipatory and preventative, and Innovative. For more details see <https://www.professionalstandards.org.uk/publications/right-touch-regulation-2025>

Finally, one of the “hottest” topics is the continued emergence and usage of Artificial Intelligence (AI) in all areas of government and business. Just last week, The Council of Licensing, Enforcement and Regulation (CLEAR), an international organization of which Canadian profession regulators have a strong presence, approved its Principles for Ethical and Effective AI in Profession Regulation (<https://www.clearhq.org/ethical-ai-in-professional-regulation>), focusing on three strategic commitments in Professional Competence, Human-Centred Ethics, and Trust through Oversight.

It's definitely worth a read and consideration as a framework for your organization's AI Strategy and adoption.

While the Canadian government's Bill C-27 died on the Order Paper in January 2025 when Parliament was prorogued under the Trudeau government, it has not been re-introduced. However, **Ontario's Bill 194** regulates the public sector, including hospitals, educational institutions, law enforcement, and ministries of the government of Ontario (such as the Ministry of Children, Community, and Social Services; Ministry of Health; and Ministry of the Attorney General). This bill imposes obligations for the use of AI by public sector entities, including publishing information about AI use, developing and implementing accountability frameworks, and risk management. In practical terms, this means Ontarians can expect heightened protections, such as greater transparency from police when they utilize AI to assist investigations. Bill 194 is a significant step forward, and serves to illustrate one of the benefits of provincial regulation: it is often faster than federal regulation. The bill was introduced in May 2024, and received Royal Assent in November, just six months later. (<https://srinstitute.utoronto.ca/news/whats-next-for-aida>)

**Did I miss any major news stories with profession regulator impact? Please let me know – [jordan@upstreammanagementsolutions.com](mailto:jordan@upstreammanagementsolutions.com).**

## **UPSTREAM ACADEMY'S LATEST ON-DEMAND E-LEARNING COURSES**

In our first year of operation, I've created and posted 16 Upstream Academy e-learning courses in regulatory policy, and strategy development. November's six e-learning courses available on our website are:



- In our Regulatory Policy Development series:

***Introduction to “Right Touch Regulation”***, which gives the foundation on the recently updated Right Touch Regulation model of regulatory responses proportionate to harm risks and how it is currently used by profession regulators (Basic);

***Extending “Right Touch Regulation”*** throughout your regulatory functions, which presents ways of expanding its use by regulators over registrants' careers (Intermediate);

***Policy Intelligence***, which presents techniques to better identify emerging policy issues and trends and to incorporate them into the policy development process (Advanced); and

***“Upstream” Problem Solving***, which presents a preventative, system mindset and creative ways of preventing harm through targeted earlier interventions (Advanced).

- In our Strategy series:

***Evaluating and Updating Strategic Plans***, which provides methods for critical evaluation of current strategic plans, updating, or when to start afresh, and adding agility to address changing environments (Intermediate), and

**AI Strategy and Use for Regulators** to give an overview of AI and its potential uses by regulators in both core and supporting regulatory functions.

I'm really excited to be presenting these courses you won't find anywhere else, as they are customized for profession regulatory bodies. **Upstream Academy** courses are ideal for onboarding new staff or supporting their personal training and development, with content that is practical and customized for regulatory bodies. A certificate will be provided for completing each course. Basic courses are \$50, Intermediate level \$100, and Advanced level \$150 (HST included). To register go to [www.upstreammanagementsolutions.com/training](http://www.upstreammanagementsolutions.com/training).

If you would prefer to have a learning experience for a group of 3 or more, using case studies, we can provide that onsite at your offices or remotely by Zoom. Please contact me for pricing and to discuss your training needs, within your budget.

Interested in learning more or have an idea for a training course? Give us a call (416-880-0353) or email [jordan@upstreammanagementsolutions.com](mailto:jordan@upstreammanagementsolutions.com).

## WHEN WILL YOU GET AROUND TO IT?



Have you been waiting for a 'Round Tuit' to finally tackle that next policy or strategy project by year's end or early in 2026? Well, here it is! Don't have the resources to take off other projects, or to hire a full-time policy or strategy analyst? Or do you want to "level up" to larger regulators fast?

Upstream Management Solutions specializes in targeted consulting for regulatory bodies, delivering focused policy development and strategic planning for your small-scale projects. We go "upstream" to the core issue, providing innovative, durable solutions that measurably improve regulatory performance. Now is the ideal time to get that project started. Give us a call or email to explore your options.

## HAPPY HOLIDAYS

For those celebrating holidays this end of year (or even just the end of the year itself), this is a great opportunity to unwind a bit, reflect, and (yes) plan ahead for a productive 2026. Best wishes to you from all of us at Upstream! Maybe one of your New Year's resolutions should be to enroll in one of our Upstream Academy courses to get a head start on your professional development...

With Warm Regards,

*Jordan*

## ABOUT UPSTREAM MANAGEMENT SOLUTIONS



We're a boutique management and training consultancy, offering five PULSE pillars of consulting and training excellence, experience, and expertise for the public sector:

- **Policy Research, Development & Analysis**
- **User Experience/Human Centered Design**
- **Learning & Development**
- **Strategy/Strategic Planning, and**
- **Engaging Stakeholders & Partners**

We help broader public sector organizations to achieve their mandates by solving their toughest challenges by going "upstream" to the source, instead of focusing on symptoms. We provide reviews, environmental scans, analysis, advice, reports, and plans, as well as "in-house" and on-demand training for staff and volunteers. UMS specializes in advising and training:

- Federal, provincial and municipal governments
- Profession-regulating and other regulatory bodies
- Hospitals, universities and colleges
- Agencies and special purpose bodies
- Member associations, and
- Non-profit organizations.

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