

REMARKS BY

Commissioner Jean Augustine

Looking Back, Looking Forward

At

Transforming Access

Friday, November 21, 2014

9:20 a.m. delivery

**North York Civic Centre,
5100 Yonge Street
Toronto, Ontario**

Not for distribution

INTRODUCTION

I am pleased to stand before you today, and even more pleased that you are participating in the OFC's first Forum,

Transforming Access. According to my dictionary, the word "transforming" doesn't mean that you apply a tweak here and a tweak there to change something. It means: "the operation of changing, as by mapping." It means a complete and utter change.

Today we're going to examine the transformation that has taken place since our fair-access legislation was enacted. We will also explore outstanding barriers to furthering the transformation and we will discuss how we can work together to advance the transformation.

It all began in 2007, with this piece of paper. [PAUSE, holding the letter of appointment.]

This is the letter from the province, appointing me as Commissioner and the person who was assigned to breathe life into the new fair-access legislation.

I have no doubt that the transformation from that day to this day would have been much smoother, if this paper had actually been a map and not a letter.

But back then there was no such map to be found anywhere in the world.

My only guide was the fair-access legislation, which identified the destination but not the route.

Before the office opened, a provincial task force and several attempts to enact fair-access legislation had taken place, but it was not until 2006 that legislation with real teeth became law. It was called the Fair Access to Regulated Professions Act or FARPA for short, which was expanded to the Fair Access to Regulated Professions and Compulsory Trades Act, or FARPACTA, a few years later. For the first time our law established an accountability mechanism for the province's professional regulatory bodies.

Armed with this law, I had a vague idea of the direction to take. I had a vision of where we needed to go. I had a dream of how far FARPACTA could take us.

And so I set out on the journey.

Along the way, I was generously supported by many of you. I want to thank you for the time and help you've given me in the past seven years—almost eight, in fact.

Along the route to transformation there were no road signs to tell us how far we had to go to reach a place called Transparency, or a station called Objectivity, or a whistle stop known as Impartiality.

The question now is: Are we there yet?

My answer is: Yes and No.

In the past few years we have made critical steps forward.

We've helped create conditions for greater mobility across provincial and national borders. Together—by which I mean the regulators, ministry officials, and OFC staff—we have worked to implement labour-mobility legislation, by reviewing registration requirements and removing barriers.

I'm proud of the fact that we've helped put fair access at the centre of national and provincial strategy documents. I'm also proud to have contributed to national discussions about the Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications, and to have advised the Expert Roundtable on Immigration while the members shaped priorities for the Ontario Immigration Strategy. These are some of the

concrete changes that have made a real difference in the lives of immigrant professionals.

Today, for example, immigrant lawyers have fewer courses to take in order to meet licensing requirements. Nor do immigrant teachers still have to demonstrate Canadian experience.

Since our early days, the Office of the Fairness Commissioner has worked with many of you—and thought leaders from many other organizations not represented here today, such as the Royal Bank, the Board of Trade, the Conference Board of Canada, and MaRS. Through dialogue and research, we have worked hard to map the route and push back the boundaries blocking our way.

When you look at the legislation, you see it clearly states that a regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair. The mandate of my office is to encourage and assist regulators to do their duty. We focus our time and energy to ensure that all qualified professionals can be registered to practice their profession, regardless of where in the world they were educated. Our job is to ensure the fair treatment of professionals seeking a license in the province. At the same time, we must remember to strike a fine balance: On the one hand, it's necessary to maintain the standards for licensing all professionals. On the other hand, it's crucial to treat all applicants to the regulated professions and trades in a fair and consistent manner.

Easier said than done.

Which is why the work of my office is so challenging, and why our mandate requires continuous vigilance.

During our first four years, the OFC focused on research and education. We gathered baseline information about the registration practices of the regulatory bodies, informed them of their legislative responsibilities, and worked with them to improve their registration practices.

Between 2008 and 2010, we conducted compliance audits of all regulatory bodies. In 2011, we asked them to submit Entry-to-Practice Reviews. In these reviews, regulators were required to critically examine three key facets of their licensing process.

Number One: their requirement for practical training or work experience;

Number Two: the timeliness of their decision-making about applicants;

And three: the fees required for registration.

The information we obtained in this way led us to a new phase of direct assessment of each regulator and to the first comprehensive assessment of registration practices ever done in Canada. And I might add, in the world.

It seemed that, in the absence of a map, our office was slowly learning how to be the fair-access mapmaker—not just for

Ontario. It was increasingly clear that we were also leading the way for other jurisdictions inside Canada—such as Manitoba, Quebec and Nova Scotia-- and also outside Canada—for countries such as Germany and Austria.

We also had to build our own compass in order to keep mapping. The four points on the first such compass in the world were and still are: transparency, objectivity, impartiality, and fairness.

These compass points were hard to pin down and we soon realized we couldn't draw a straight line on the map to fair access. We learned that the attainment of fair access takes time and that it requires continual adjustments along the way. And so we developed our Continuous Improvement Strategy, which

monitors the challenges and the changes that regulators face while striving to improve their registration practices in a dynamic regulatory environment.

If you're wondering what I mean by "dynamic," I'd like to remind you that the regulatory landscape is subject to continual change because it depends on so many factors. These factors include the economy, our immigration policy and the need for workers at any given time, the two levels of government, and the academic and research communities.

I'm quite reassured to see the increasing recognition that fair access is intricately linked to our federal immigration initiatives, and I want to do whatever I can to promote and encourage dialogue across governmental levels.

I'm extremely pleased that we have a good cross-section of stakeholders here in this room today. Among us we have immigrant-serving organizations, assessment agencies, academics, regulatory bodies, specialists from Manitoba and Nova Scotia, Ontario government representatives, and—last, but not least--Harry Cayton, who has come all the way from England to address some of the challenges to professional self-regulation in the UK and labour mobility in the EU.

I'm certain we know we must work together to reach our destination. I expect great things to come from this Forum. I know you will listen closely to one another, and I have every expectation that you will learn from one another and work closely together in the months and years to come.

You all know we still have a great deal of work to do and that our destination may always be just beyond the horizon. You also know that fairness is a concept that all of us in this room hold dear, and that fairness must be tied to immigration.

A major policy concern for Canada is the alarming decline in the earnings of immigrants. Census data from a 2012 study by the Institute for Research on Public Policy show that recent immigrants earned 30 to 40 percent less in 2006 than their Canadian-born counterparts. In the 1970s the difference was only 10 to 15 percent. So immigrant earnings declined considerably in that period.

Earlier this year, we partnered with the Ontario Ministry of Citizenship, Immigration and International Trade on an

ambitious research project designed to compare the employment match rates for immigrants educated in a regulated profession outside Canada with their counterparts born and educated inside Canada.

Here's the good news for Ontario:

- Employment match rates for internationally educated immigrant professionals increased between 2006 and 2011.
- The gap between internationally educated immigrant professionals and their Canadian born and educated counterparts has narrowed over time.
- Ontario disparity measures were equal to or lower than the national average for 13 of 17 professions.

Clearly, we're doing some things right.

But there's also bad news for Ontario.

In 2011:

- 75.9 percent of employed immigrant professionals were working in jobs outside their field.
- Most of those jobs were well below their skill level.
- Clearly, there is more to be done. The numbers show that progress in licensing has been more significant than progress in employment. Creative and collaborative work is needed to help improve both licensing and employment outcomes.
- Research is one of the most important things my office does, often by collaborating with other government offices and organizations.

We conducted our first full assessment of regulators between 2011 and 2012. At the time there were 35 regulatory bodies, which encompassed 37 professions. Now there are 42 regulators, a couple of which have not yet begun licensing and which my office is working with to ensure they are well-positioned, right from the start, to comply with fair-access requirements.

When we conducted that first cycle of assessment a couple of years ago, we did it with a great deal of dialogue between each regulator and my office. For the first cycle, every one of them had to provide evidence about the ways they communicated with applicants when registering them.

As we all know, communication is the cornerstone of a strong relationship. But when we reviewed the results of the first

assessment, we learned that communication between a number of regulators and their applicants was inadequate or unclear.

Then we made recommendations about the areas where they could improve their communications with applicants. In addition, we made recommendations about the top 12 areas that needed improvement across the board.

Those 12 areas included:

1. the need to provide clear rationales for registration requirements;
2. the need to recognize acceptable alternatives for meeting registration requirements;
3. the need to strengthen assessment criteria and methods;

4. and the need to increase the rigour of training for decision-makers.

Then, between May 2013 and September 2014, we conducted our second assessment. This time we performed targeted assessments in order to zero in on specific areas where we had made recommendations in the first assessment cycle.

When we reviewed the results of the second assessment, we found that many of the issues that had cropped up in our first assessment were still issues to be addressed by some of the regulators.

We also found that some regulators understood the tenets of the fair-access legislation better than others did. And we saw that

the lack of comprehension in specific areas was actually preventing them from making their registration practices more transparent, objective, impartial and fair.

Through our first two bi-annual assessments of registration practices, we have helped the regulatory bodies to understand fair-access legislation and to pass on the new understanding to their applicants.

We like to encourage the steps they take in the right direction. I'm very pleased to say that after our first round of assessments, the regulatory bodies followed 92 percent of our recommendations. For example, some regulators have begun to explore alternative ways in which applicants can register and others have waived the requirement for Canadian experience.

By the same token, and in accordance with the legislation, we hold the regulators accountable. If you do the math, you'll see that 8 percent of our recommendations from the first assessment have not yet been implemented.

I'm not here to name names—you can see them in our 2013 annual report, which will be available shortly.

I *am* here to tell you a bit about our work and how our work—yours and mine--has transformed parts of the regulatory landscape in the past seven or eight years. And my fondest hope is that the work we do here today will provide insight into how and where we still have to strive to transform the landscape.

My office will continue to hold the regulators accountable, even as the number of regulators grows and new bodies are proclaimed. We will continue to map the changing landscape to include new additions, such as the recently proclaimed College of Kinesiologists of Ontario, the Ontario College of Trades, and the College of Traditional Chinese Medicine Practitioners and Acupuncturists.

We will continue to conduct our assessments and make our recommendations to ensure the continuous improvement of the regulatory bodies. In the past seven years, there is one thing we've learned about the landscape we're mapping: the greater the transformation, the more interesting the mapping becomes.

CONCLUSION

I know that the conference organizers have planned a stimulating day for you and I trust you'll be exposed to many new ideas by the end of the day.

I hope that the issues under discussion here will serve as a collective challenge to help us imagine new policies, new programs, and initiatives that we can adopt and implement in order to continue the work of transforming our fair-access legislation into reality.

Seven, close to eight, years is not a long time. So let's just say we're only getting started. We have a lot of exciting and ground-breaking work to do and I personally—along with my staff--look forward to engaging further with all of you.

I thank you for your kind attention, and I wish you a productive and transformative day. Now, let's get started.