



2008–2009
annual report

Office of the
fairness
commissioner

Bureau du
commissaire à
l'équité





Office of the Fairness Commissioner
595 Bay Street, Suite 1201
Toronto ON
M7A 2B4
Canada
416.325.9380 or 1.877.727.5365
ofc@ontario.ca
www.fairnesscommissioner.ca

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The Office of the Fairness Commissioner is an arm's-length agency of the Ontario government, established under the Fair Access to Regulated Professions Act, 2006. Its mandate is to ensure that certain regulated professions have registration practices that are transparent, objective, impartial and fair.



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letter of transmittal

June 23, 2009

The Honourable Michael Chan
Minister of Citizenship and Immigration
400 University Ave, 6th Floor
Toronto ON M7A 2R9

Dear Minister,

In accordance with Section 15(1) of the Fair Access to Regulated Professions Act, 2006, I am pleased to present the 2008–09 Annual Report of the Office of the Fairness Commissioner for your submission to the Legislative Assembly of Ontario.

Sincerely,



Hon. Jean Augustine, PC
Fairness Commissioner



message from the fairness commissioner

I am pleased to offer this report on the activities of the Office of the Fairness Commissioner (OFC) for 2008–09.

We are seeing the beginnings of positive systemic change, change that clearly reflects the values of Ontarians.

Regulatory bodies must now implement new reporting and review procedures and undergo audits of their registration practices. Over the past year we have worked closely with these bodies to develop guides and other tools to assist them as they meet their new responsibilities.

With the OFC's leadership, they are working hard to ensure that no barriers to registration exist in their organizations for qualified individuals, regardless of where they were trained.

I encourage you to read our second annual report, and to contact us with your comments.

A handwritten signature in black ink, appearing to be 'JA', written in a stylized, cursive font.

Hon. Jean Augustine, PC
Fairness Commissioner

| We are seeing the beginnings of positive systemic change, change that clearly reflects the values of Ontarians. |



message from the executive director

Regulatory bodies were required to file their 2008 Fair Registration Practices Reports – their first such reports – with the Office of the Fairness Commissioner (OFC) by March 1, 2009. At the end of the fiscal year, staff were reviewing these documents as well as reports on the first audits of regulatory bodies' registration practices. These reviews continue, and we anticipate spending much of the 2009–10 fiscal year analyzing the information yielded by the documents. To ensure efficiency, we have created a solid set of benchmarks that will allow us to measure our progress over time.

In 2008–09, we continued to engage our stakeholders in formal and informal consultations and to work with the regulatory bodies to help them achieve transparent, objective, impartial and fair registration practices.

We began our second year of operations finalizing studies of the registration practices of 34 regulatory bodies. Soon thereafter, we published the following documents:

- the 34 studies (on the OFC website only)
- a summary of the studies, *Ontario's Regulated Professions: Report on the 2007 Study of Registration Practices*
- the OFC's 2007–08 annual report

After extensive consultations with regulatory bodies, we also developed and published the following "tools" to help these bodies meet their legislative compliance obligations:

- *Guidelines for Fair Registration Practices Reports*
- *Framework for Audits of Registration Practices: Guidance for Regulatory Bodies*
- *A Starter Kit for Conducting Reviews of Registration Practices*

In addition, we conducted and published the first-ever *Study of Qualifications Assessment Agencies*, as part of our responsibility to monitor third parties that regulatory bodies rely on to assess applicants' qualifications for registration.

All these documents are available on the OFC's website, at www.fairnesscommissioner.ca.

Nuzhat Jafri
Executive Director



introduction

In June 2006, the Ontario government introduced the Fair Access to Regulated Professions Act, 2006 (FARPA). Through this statute, for the first time in the history of the regulated professions in Ontario, an oversight process would ensure that registration practices would be “transparent, objective, impartial and fair” and that responses to individuals applying for registration in Ontario’s regulated professions would be timely. The act received the support of all parties in the Legislature, and came into effect on March 1, 2007.

FARPA also amended the Health Professions Procedural Code, set out in Schedule 2 of the Regulated Health Professions Act, 1991. The code now requires that registration practices in the health professions also be “transparent, objective, impartial and fair.”

On March 21, 2007, Hon. Jean Augustine, PC, was appointed Ontario’s first Fairness Commissioner, and on April 2, 2007, the Office of the Fairness Commissioner (OFC) opened its doors. Now fully operational, the office takes action to ensure that Ontario’s regulated professions establish and maintain fair registration practices.

The OFC does not advocate for or intervene on behalf of individuals, or assess credentials. Its mandate is to work with the regulated professions to make sure that everyone who applies to register with them receives fair treatment.

Mandate

¶ The OFC's mandate is set out in the Fair Access to Regulated Professions Act, 2006 (FARPA), and in amendments to the Health Professions Procedural Code (HPPC) (Schedule 2 of the Regulated Health Professions Act [RHPA], 1991). The OFC's specific responsibilities are to:

- assess the registration practices of certain regulated professions in Ontario
- monitor third-party agencies that regulated professions rely on for assessment of applicants' qualifications
- set out guidelines for the content and form of the regulatory bodies' yearly reports to the OFC
- consult with the regulated professions about the scope, timing and cost of the audits required by the legislation
- specify the criteria and standards for these audits
- receive and review the audit reports
- assess systemic problems with registration practices by analyzing information in the regulatory bodies' reports to the OFC
- issue compliance orders, where necessary, to the non-health professions
- advise the Minister of Citizenship and Immigration on matters related to FARPA
- provide advice and recommendations to the Minister of Health and Long-Term Care, including where the OFC has determined that a regulated health profession has failed to comply with the fair registration requirements set out in the HPPC
- advise other government ministries about issues related to the registration practices of the regulated professions that fall under their respective jurisdictions
- advise the regulated professions with respect to matters covered by the legislation
- advise qualifications assessment agencies, colleges and universities, community agencies and other organizations with a stake in the registration practices of the regulated professions about matters related to FARPA and the HPPC ¶

¶ As of March 31, 2009, FARPA and the RHPA as amended covered 36 regulatory bodies (not all regulated professions are subject to the fair access legislation), but two of those bodies only began registering members during the 2008–09 fiscal year. Thus, references in this report to numbers of regulatory bodies vary. See Appendix 1 for a list of the 36 regulatory bodies under the OFC's purview that, as of March 31, 2009, were registering members. ¶

¶ While ensuring fairness has always been a feature of testing programs, the superior quality of work done by the Office of the Fairness Commissioner has underscored the importance of fairness principles. Indeed, adherence to these principles is evolving to become an Ontario value integrated in all phases of testing.

– Louise Sweatman – Chief Operating Officer – Assessment Strategies Inc. ¶



the year in review

The 2008–09 fiscal year was the first in which regulatory bodies had to:

- submit annual Fair Registration Practices Reports to the Fairness Commissioner
- begin their registration-practices audit cycles
- conduct periodic internal reviews of their registration practices

ASSESSING THE REGISTRATION PRACTICES OF REGULATORY BODIES

Early in the first quarter of 2008–09, the OFC was occupied with the preparation of 36 documents for publication: individual studies of the registration practices of 34 regulatory bodies; a summary of the 34 studies, *Ontario's Regulated Professions: Report on the 2007 Study of Registration Practices*; and the OFC's first annual report. These documents are available on the OFC's website, at www.fairnesscommissioner.ca.

Having collected, analyzed and reported the studies' baseline data, the OFC began researching and documenting changes to registration practices in light of FARPA's requirements and assessing the regulatory bodies' progress in this area as described in the reports they began submitting to the Commissioner. The office is committed to basing its advice and recommendations on solid information.

| This year was the first in which regulatory bodies had to submit annual Fair Registration Practices Reports, begin their audits and conduct internal reviews of their registration practices. |

To ensure that the information yielded by the regulatory bodies' Fair Registration Practices Reports, their audit reports and their reviews of their registration practices will allow the OFC to evaluate the professions' compliance with FARPA, the OFC prepared a series of guides or tools, described below, to help the regulatory bodies meet their statutory obligations.

Fair Registration Practices Reports

In June 2008, the OFC distributed *Guidelines for Fair Registration Practices Reports*, based on the fair access legislation, to the regulatory bodies to help them prepare the Fair Registration Practices reports that they are required to submit to the OFC annually.

In addition, the OFC set up a process that enables regulatory bodies to file these reports through a password-protected website – a process that also facilitates OFC's analysis of the reports. The site was pilot-tested by four regulatory bodies and went live on December 15, 2008. Thirty-three of 35 regulatory bodies filed their reports by the March 1, 2009 deadline.

The OFC will monitor the reporting process, as well as the information filed, and make improvements as necessary to ensure that the process is effective.

Audits

Regulatory bodies that have been registering members for at least two years are required to undergo audits of their registration practices. In August 2008, the OFC issued its *Framework for Audits of Registration Practices: Guidance for Ontario's Regulatory Bodies*. The framework specifies the scope of and standards for audits, and provides guidance about the eligibility criteria for the roster of auditors, guidance on the evaluation of registration practices and information about audit timelines.

To further facilitate the auditing process, the OFC conducted orientation sessions for the auditors selected by the eight regulatory bodies that underwent audits in the 2008–09 fiscal year, prior to the beginning of each audit. These eight bodies are as follows:

- Royal College of Dental Surgeons of Ontario
- Professional Engineers Ontario
- Association of Professional Geoscientists of Ontario
- College of Massage Therapists of Ontario
- Ontario College of Pharmacists
- College of Physiotherapists of Ontario
- Ontario College of Teachers
- College of Veterinarians of Ontario

By the end of the fiscal year, the office had received audit reports from four regulatory bodies:

- Royal College of Dental Surgeons of Ontario
- Association of Professional Geoscientists of Ontario
- College of Physiotherapists of Ontario
- College of Veterinarians of Ontario

By March 31, 2010, all the remaining regulatory bodies that are required to undergo audits will have experienced their first one. Under FARPA, the regulatory bodies must make their audit reports available to the public.

Reviews of Registration Practices

The regulated professions governed by FARPA and the health regulatory colleges governed by the RHPA must conduct reviews of their registration and licensing practices to ensure that their practices are transparent, objective, impartial and fair. These important reviews differ from audits and FRP reports in that they encourage regulatory bodies to assess the relevance and necessity of their own practices. The OFC anticipates that regulatory bodies will conduct these reviews on an as-needed basis.

In October 2008, the OFC held a one-day workshop with the regulatory bodies to gather input for the content of a proposed guide to conducting reviews of registration practices. The College of Physiotherapists of Ontario and the Ontario College of Teachers had recently completed internal reviews, and were invited to offer their insights and discuss their approaches to self-assessment.

Using feedback from the workshop, the office developed *A Starter Kit for Conducting Reviews of Registration Practices* to assist the regulatory bodies in reviewing their practices. The starter kit was released on December 19, 2008. The office also began work on a more comprehensive guide for conducting these reviews.

RELATED OFC INITIATIVES

In addition to developing tools to help regulatory bodies comply with their statutory obligations, the OFC undertook the following complementary initiatives.

Study of Qualifications Assessment Agencies

The OFC's *Study of Qualifications Assessment Agencies* was released on March 25, 2009. It highlighted the open and timely practices at some agencies, but noted that others had practices that are costly, lengthy, or leave candidates without reasons for the decisions made in their cases and without opportunities to challenge those decisions. These agencies have to offer applicants more help, establish and observe clear criteria and streamline their procedures.

The OFC recommended improvements to both the qualifications assessment agencies and the regulatory bodies, which are accountable for the agencies they use. The study's findings provide insights that will inform dialogue between the two groups, as well as future recommendations of the Fairness Commissioner.

| I think you have put together an excellent report. We have brought together a group of regulators (mostly from the health professions) to work on two follow-up initiatives – a common standard for documents and a training program.

– Tim Owen – Director – World Education Services |

The OFC initiated this study of the qualifications assessment agencies used by Ontario regulatory bodies to understand and document how these agencies perform their work. The fair access legislation refers to qualifications assessment agencies as “third parties” that are relied upon by regulated professions to assess qualifications. One of the Fairness Commissioner’s functions is to monitor these organizations to ensure that their assessments are transparent, objective, impartial and fair.

Twenty-seven of the regulated professions use third parties to assess applicants’ qualifications, and base their registration decisions on these assessments. The assessment of qualifications is the most critical part of the registration 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 registration can occur.

Before the OFC initiated this study, examinations of access to regulated professions in Ontario tended to focus on the practices of regulatory bodies. However, because qualifications assessment agencies are key players in determining access to the professions, it is important to consider how they can contribute to the fair and equitable treatment of applicants.

The study was based on the results of an online questionnaire administered in the summer/fall of 2008. Forty-one entities were identified as qualifications assessment agencies and invited to participate in the survey. Most of them (71 per cent) participated. The participants were of three types: post-secondary educational institutions, credentials assessment agencies and profession-related assessment agencies.

Review of Statutes, Regulations and By-Laws Governing the Registration Practices of Regulated Professions

Between September 2008 and February 2009, OFC staff reviewed 34 regulatory bodies’ statutes and registration-related regulations and by-laws to acquire a better understanding of how and where the different bodies’ registration requirements and practices are stipulated.

Some Registration-Related Requirements Common to Regulated Professions

Good character

┆ Twelve of 34 regulatory bodies have “good character” as a registration requirement in their statutes, registration regulations and/or by-laws. One of 34 regulatory bodies provides criteria in its regulation for determining a “good character.” Setting criteria to clarify the meaning of “good character” improves the transparency of the requirement and would assist regulatory bodies in making objective judgements. ┆

Canadian experience

┆ Eleven of 34 regulatory bodies have Canadian experience as a registration requirement in their statutes, registration regulations and/or by-laws. ┆

┆ Among those regulatory bodies that have Canadian experience as a registration requirement in their statutes, registration regulations and/or by-laws, some do not contemplate alternative options. Others have provisions for alternatives such as experience that is considered “equivalent” to Canadian experience. ┆

Language fluency

┆ Twenty-three of 34 regulatory bodies require “reasonable fluency” in either English or French or the ability to communicate effectively as a registration requirement in their statutes, registration regulations and/or by-laws. According to information gathered by the OFC in its 2007 study of registration practices, some regulatory bodies do not require any language evaluation. In these cases, reasonable fluency is indirectly assessed by applicants’ ability to pass the registration examinations. Other regulatory bodies require specific language tests and scores to demonstrate fluency in English or French. ┆

Canadian citizenship or permanent resident status

┆ Four out of 34 regulatory bodies require Canadian citizenship or permanent resident status as a registration requirement in their statutes, registration regulations and/or by-laws. Others have a more inclusive provision that accepts applicants who hold an authorization under the Immigration Act to engage in the practice of the profession, as well as those with Canadian citizenship or permanent resident status. ┆

After the review, the OFC was able to identify some requirements common to regulatory bodies:

- good character
- Canadian experience
- fluency in English or French
- Canadian citizenship or permanent resident status

Some professions set out their registration requirements in statutes and regulations; others have them in by-laws or policy documents. Changes to by-laws and policy documents can be made by a regulatory body itself with the approval of its council and/or membership, but changes to statutes and regulations are subject to a higher level of public scrutiny. Proposed changes to statutes must be submitted to the Legislature, and proposed changes to regulations must be submitted to the Lieutenant Governor in Council (Cabinet), for review and approval. These processes can be lengthy. While awaiting approval, regulatory bodies continue to follow their existing registration requirements.

See the "Report by Ministry" section that starts on page 15 for registration-related changes that some regulatory bodies have proposed to their statutes, regulations, by-laws and policies.

Review of Regulatory Bodies' Proposed Changes to Their Registration Regulations and Policies

OFC staff reviewed proposed changes to registration-related regulations and policies of the following regulatory bodies:

- College of Dental Hygienists of Ontario
- College of Dental Technologists of Ontario
- Professional Engineers Ontario
- Association of Ontario Land Surveyors
- Law Society of Upper Canada
- Ontario College of Pharmacists
- College of Physicians and Surgeons of Ontario
- College of Respiratory Therapists of Ontario
- Ontario College of Teachers

See the "Report by Ministry" section that starts on page 15 for more information about changes proposed by regulatory bodies.

Study of Applicants' Experiences in the Registration Process

The OFC is pioneering research on the experiences of individuals trained in Canada and abroad who seek registration in Ontario's regulated professions. First-hand information from applicants will complement information gathered from regulatory bodies and assessment agencies.

The study, called *Getting Your Professional Licence in Ontario: The Experiences of International and Canadian Applicants*, involves an online survey and focus groups. It will be launched in April 2009, and will provide solid research on a topic where existing evidence is often anecdotal. The results will help the OFC better understand the registration practices of Ontario's regulatory bodies and help regulatory bodies identify good practices and improve their registration processes.

DEVELOPMENTS RELATED TO FAIR ACCESS TO ONTARIO'S REGULATED PROFESSIONS

Increasing Access to Qualified Health Professionals for Ontarians Act, 2008 (Bill 97)

Bill 97, which received Royal Assent on November 27, 2008, amended the Health Professions Procedural Code (Schedule 2 to the Regulated Health Professions Act, 1991) to require all regulated health professions to work in consultation with MOHLTC "to ensure, as a matter of public interest, that the people of Ontario have access to adequate numbers of qualified, skilled and competent regulated health professionals."

Agreement on Internal Trade

The Agreement on Internal Trade (AIT), signed by Canadian First Ministers and aimed at reducing barriers to the movement of "persons, goods, services and investment" within Canada, came into effect in 1995. In January 2009, the First Ministers signed a revised AIT.

By August 2009, under the terms of the AIT, full labour mobility is expected across Canada. This development affects the registration requirements of Ontario's regulated professions. One of the AIT's core concepts is that individuals who have an unrestricted licence to practise in a Canadian jurisdiction should be eligible for a licence in any other Canadian jurisdiction to which they apply, without undergoing another assessment.

OFC's Observations About the Labour Mobility Provisions of the AIT

Consistency of goals

▮ We agree with the spirit of the AIT, which is to improve access to professions. ▮

▮ The principles expressed in FARPA are consistent with the objectives of the AIT. Both have the same purpose and goal, which is to remove barriers to access to the professions. ▮

Fair access for all applicants

▮ We support the goal of increased labour mobility, provided access to regulated professions in Ontario is transparent, objective, impartial and fair for *all* applicants. ▮

Benefits for Canadian and internationally trained individuals

▮ Professional standards that are consistent across Canada and easy for applicants to understand would be beneficial for Canadian and internationally trained individuals. ▮

▮ There are examples of professions that have national or international agreements that work well for internationally trained individuals. ▮

Amendments to the AIT

▮ Any amendments to the AIT should incorporate the principles of FARPA and ensure that licensure or certification processes are transparent, objective, impartial and fair for all applicants. ▮

▮ We support the goal of increased labour mobility, provided access to regulated professions in Ontario is transparent, objective, impartial and fair for *all* applicants. ▮

STAKEHOLDER RELATIONS

In 2008–09, the OFC continued building strong relationships with key stakeholders. It met with the Ministry of Health and Long-Term Care, community agencies that serve immigrants, organizations for internationally educated professionals and professional associations. These meetings were held to familiarize the organizations with the OFC’s mandate and plans for the future, and to offer them an opportunity to provide their own analyses of registration practices in their fields of expertise.

OFC staff also conducted three days of orientation sessions for the auditors selected by regulatory bodies.

From September to December 2008, the Fairness Commissioner met with the ministers responsible for the regulated professions. At each meeting the Commissioner explained the office’s mandate and vision and provided an update on the OFC’s activities, particularly in relation to the professions under the purview of the minister concerned.

In October 2008, the Commissioner and staff met with the Council of Ontario Faculties of Medicine to provide information about the OFC’s mandate and to acquire an understanding of the criteria and processes used to select individuals for medical residency positions. The OFC continues to seek a clear understanding of these criteria and processes.

In February 2009, the Fairness Commissioner met the executive director of the Medical Council of Canada (MCC) to clarify the OFC’s understanding of the role the MCC plays in assessing Canadian and international medical graduates. The MCC is one of the third-party organizations used by the College of Physicians and Surgeons of Ontario (CPSO) to assess the qualifications of applicants for registration with the CPSO. The MCC administers the national exams that assess candidates’ knowledge and skills.



report by ministry

Ontario's regulated professions fall under the jurisdiction of eight ministries (see Appendix 2). The Ontario Association of Certified Engineering Technicians and Technologists is an exception. It does not fall under the purview of a provincial ministry, although it is a regulated profession.

The Fair Access to Regulated Professions Act, 2006 (FARPA) and the Health Professions Procedural Code (Schedule 2 of the Regulated Health Professions Act, 1991) require the OFC to advise the ministers on issues related to the improvement of the professional registration practices of the regulatory bodies under their jurisdiction.¹

The OFC is pleased to report that the regulated professions are working hard to fulfil their obligations under the legislation, and making good progress.

| The OFC is pleased to report that the regulated professions are making good progress. |

¹ Section 15(4) of FARPA requires the Fairness Commissioner to structure the office's annual report so that the implications of the report for each ministry in respect of the regulated professions that fall under its jurisdiction are readily identifiable.

The following information summarizes the registration-related issues that the OFC monitored during 2008–09.

MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

College of Veterinarians of Ontario (CVO)

In March 2009, the CVO invited the OFC to participate in a labour mobility workshop organized by the Canadian Veterinary Medical Association. The workshop brought together regulators and qualifications assessment agencies from across Canada to discuss the potential impact of the Agreement on Internal Trade (AIT) on issues such as veterinary licensing requirements, entry-to-practice standards, scope of practice and examination processes.

MINISTRY OF THE ATTORNEY GENERAL

Professional Engineers Ontario (PEO)

In September 2008, PEO made a presentation to OFC staff on its development of a national model for a comprehensive licensure process that would regulate all engineering activities in Canada, facilitate full national mobility and build a platform for international mobility. The model would include a national database of licence holders, an international institute degree database and a national accreditation system.

Also in fall 2008, PEO proposed changes to its registration regulation related to the admissions criteria for obtaining a professional engineer's licence, and invited the OFC to comment. The OFC noted that the changes proposed to the general experience requirements will provide applicants with more information, so that they can better understand the basis on which they will be evaluated. The OFC sees these changes as steps towards transparency in PEO's registration process.

The OFC also suggested that PEO consider alternatives to its Canadian experience requirement, such as the successful completion of courses related to Canadian codes, regulations and standards governing the practice of engineering.

As of March 31, 2009, PEO's proposed changes were under review by the ministry.

Law Society of Upper Canada (Law Society)

In January 2008, the Law Society's licensing and accreditation task force consulted with stakeholders about the viability of the society's licensing process. A major focus of the consultation was a review of the work experience (articling) requirement for registration. The OFC was invited to participate, and provided written comments.

Following its review of responses to the paper, the task force produced a report and recommendations in September 2008. It recommended that the Law Society retain the 10-month articling requirement for all candidates except internationally trained candidates who had been called to the bar in a common law jurisdiction and who had at least 10 months of practice experience that addresses the society's articling competencies. The task force also recommended that these candidates still be required to complete an intensive three-day professional conduct course.

| You provided important understandings of how legislated bodies involved in the regulation of professions must approach their work.

– Marie E. Crowther – Registrar – British Columbia College of Teachers |

The task force also recommended the development of a new professional responsibility and practice course to be integrated with the articling program. The adoption of this recommendation will shorten the licensing process by four weeks for candidates who must meet the articling requirement, since it eliminates a separate, four-week course that all candidates were previously required to take before articling, if they could not demonstrate a minimum of seven years of practice in a common law jurisdiction.

Successful completion of the new professional responsibility and practice course, the articling requirement and the current licensing examinations make up the society's new requirements for admission to the bar.

The Law Society is also developing a voluntary bridging program for internationally trained lawyers.

In addition to those changes, the National Committee on Accreditation, the agency the Law Society relies on to assess the qualifications of internationally trained lawyers, is permitting applicants with common law LLB and/or JD degrees, who were assessed before March 1, 2009, to request a review of their file based on new rules for evaluating foreign common law programs. Only current and valid assessment decisions will be considered.

MINISTRY OF CHILDREN AND YOUTH SERVICES

College of Early Childhood Educators (CECE)

The CECE is a new regulatory body, and the first regulatory body for early childhood educators in Canada.

The OFC worked closely with the Association of Early Childhood Educators during the establishment of the CECE's transitional council early in the 2008–09 fiscal year. In November 2008, OFC staff provided the college's new registrar and director of registration with an overview of the OFC's work and the requirements for compliance with FARPA that the CECE will eventually have to meet.

The CECE has received a positive response, and by March 31, 2009 had already received over 22,000 applications for membership.

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

Ontario College of Social Workers and Social Service Workers (OCSWSSW)

In January 2009, the OCSWSSW's council approved a reduction in the college's annual membership fee, its registration fee and its annual fees for new graduates.

Internationally educated social workers can obtain a Certificate in Canadian Social Work Practice through the one-year internationally educated social work professionals bridging program at Ryerson University's G. Raymond Chang School of Continuing Education. Taking this program is not a requirement to work as a social worker in Ontario; rather, it provides an introduction to social services in Canada and includes training, mentorship, employment and career support, and supervised work placements for qualified social work professionals educated outside of Canada.

From 2005 to 2008, the membership of registered social workers in the college has steadily increased, at an average rate of 13 per cent. Almost 90 per cent of new members received their training in Ontario.

MINISTRY OF EDUCATION

Ontario College of Teachers (OCT)

In July 2008, the OCT invited the Fairness Commissioner to participate in a discussion about possible regulatory amendments to the college's certification requirements. The proposed amendments included the consolidation of certificates, elimination of the requirement for one year of successful teaching experience as a condition of certification for teachers educated outside Ontario and the introduction of an orientation to the Ontario education system as a condition for certification. OFC staff attended the discussion, and the Commissioner provided the college with written feedback.

The Commissioner noted that the harmonization and simplification of registration practices are beneficial, and that bridging programs often provide valuable education and resources to internationally trained individuals. However, bridging programs that are compulsory for registration may create barriers if their costs are prohibitive or if they fail to recognize the qualifications of internationally trained individuals.

In August 2008, the college briefed the OFC on its proposed fair registration practices regulation. OFC staff offered feedback and expressed support for any initiative that would make registration practices fairer.

MINISTRY OF HEALTH AND LONG-TERM CARE

At March 31, 2009, 22 regulated professions fell under the auspices of the Ministry of Health and Long-Term Care (MOHLTC). Four new colleges were being created that will also fall under the purview of this ministry. One, the College of Psychotherapists and Registered Mental Health Therapists of Ontario, had established an interim registrar and a transitional council. The other three are the College of Homeopaths of Ontario, the College of Kinesiologists of Ontario and the College of Naturopaths of Ontario.

OFC staff are monitoring the new colleges as they organize to ensure that they plan for and implement transparent, objective, impartial and fair registration practices.

College of Chiropractors of Ontario (CCO)

The CCO has submitted proposed changes to its registration regulation to the ministry for review. These changes relate to its registration requirements and conditions.

As of March 31, 2009, the ministry was still reviewing these proposed changes.

College of Dental Hygienists of Ontario (CDHO)

The CDHO has proposed changes to its registration regulations to clarify its registration requirements related to past conduct, examinations and acceptable education. One of its proposals is to no longer recognize unaccredited Ontario dental hygiene programs as possible routes to registration. This change would provide applicants with more clarity about the standards required to practise the profession.

As of March 31, 2009, the college was amending its proposed changes to incorporate stakeholders' feedback and some of the OFC's recommendations.

College of Dental Technologists of Ontario (CDTO)

The CDTO proposed changes to its registration regulation in the fall of 2008 that will allow it to accept applicants who were educated in privately operated institutions approved by the Ministry of Training, Colleges and Universities. These changes are supported by the OFC because they would increase the number of approved programs available to applicants.

However, the OFC expressed concern about a second proposal, which would no longer recognize practical training obtained outside Canada. Applicants who were trained abroad may find it difficult to obtain Canadian experience, and having to fulfil this requirement could significantly delay their registration. The OFC suggested that the CDTO consider alternatives – for example, requiring applicants who do not have Canadian experience to complete additional courses or to obtain practical experience in volunteer positions or unpaid internships. It further recommended that, if Canadian experience is deemed necessary, the college articulate clearly why it is necessary, and offer applicants assistance in finding opportunities to complete the requirement – for example, through mentoring programs, with members as mentors.

The proposed changes have been submitted to the ministry and, as of March 31, 2009, the ministry was still reviewing them.

The CDTO recently signed a mutual recognition agreement (MRA) with New Brunswick. It already had negotiated MRAs with Quebec, British Columbia and Alberta. These agreements facilitate the movement of qualified practitioners between the jurisdictions of parties to the agreement.

College of Massage Therapists of Ontario (CMTO)

In February 2003, the CMTO submitted proposed changes to its registration regulation to the MOHLTC. In 2008, the CMTO revised its 2003 submission, which had not yet been approved, and proposed a further change regarding the designation and expiry of certificates. As of March 31, 2009, the revised submission was still under review by the ministry.

College of Midwives of Ontario (CMO)

The CMO has submitted proposed amendments to its registration regulation, including the implementation of a registration examination, to MOHLTC. As of March 31, 2009 the proposed changes were still under review by the ministry.

Ontario College of Pharmacists (OCP)

The OCP developed a new regulation in the summer of 2008 and invited the OFC to comment on it. The OFC noted the OCP's efforts, in the new regulation, to clarify the criteria used to assess applicants' language proficiency and to determine applicants' suitability to practise. The OFC also supported the steps the OCP is taking to make the practical training requirement more flexible, so that the experience applicants have acquired prior to applying for registration is better taken into account.

However, the OFC expressed concerns about an OCP proposal to require international pharmacy graduates (IPGs) to take bridging programs approved by the OCP's council, because the cost of the program is likely to create a hardship for IPGs and the proposal does not include an offer of financial assistance. As of March 31, 2009, after several discussions with the OFC, the OCP was exploring alternatives to this proposal.

| The CVO, as regulatory body for Ontario veterinarians, is pleased to see our own commitment to fair access to the profession echoed and promoted by the OFC.

– Susan Carlyle – Registrar – College of Veterinarians of Ontario |

College of Physicians and Surgeons of Ontario (CPSO)

In October 2008, CPSO notified the OFC that the previous summer its council had approved a new policy that established four new “pathways” to registration for medical graduates trained in other Canadian and in international jurisdictions. These pathways were numbered 1 to 4. The CPSO further advised the OFC that it had developed, and was circulating to stakeholders and the OFC for comment, two additional pathways, numbered 5 and 6.

Pathway 5 defines an “approved” jurisdiction for the purposes of the registration of an international medical graduate (IMG) as one with a postgraduate medical education system for non-family-medicine specialists that has been approved by the Royal College of Physicians and Surgeons of Canada (RCPSC). At present, the RCPSC-approved jurisdictions are Australia, New Zealand, South Africa, the United Kingdom, the Republic of Ireland, Switzerland, Singapore and Hong Kong.

Pathway 6 addresses the registration of IMGs with medical degrees from unapproved jurisdictions – that is, those with postgraduate training that has not been approved by the RCPSC. In order to be eligible for registration, these applicants must meet all the requirements for an Independent Practice Certificate and have five or more continuous years of independent practice in Canada.

In its December 2008 response to the college, the OFC expressed two concerns about Pathways 5 and 6. First, Pathway 5 raises the issue of fairness, because the RCPSC-approved jurisdictions do not include four of the CPSO’s top five “intake” countries for internationally trained applicants (see Figure 5 on page 28). Second, Pathway 6 raises the issue of transparency. It is unclear how applicants can fulfil the requirement to have five or more continuous years of independent practice in Canada when their medical degrees and postgraduate training have not been approved by the RCPSC. The OFC recommended that the CPSO provide Pathway 6 applicants with additional, clear information about how they can satisfy the practice requirement.

Although the OFC was not asked to comment on Pathways 1 to 4, it included observations about them in its response to the CPSO. These pathways, which went into effect on December 1, 2008, are intended to fast-track the registration of physicians trained in other Canadian jurisdictions and in the United States. The OFC welcomed Pathways 1 to 4 as positive steps towards improving entry to the profession for these applicants. It pointed out, however, that Pathways 1 to 4 do not address the issues faced by qualified applicants already in Ontario. Rather, they appear to focus on fast-tracking new physicians at the expense of those who have been in the province for some time. The latter will fall further behind, as their qualifications are no longer considered current.

The OFC also noted that qualified applicants already in Ontario represent an important source of talent – they have valuable skills, and could help relieve the province’s shortage of doctors. The OFC suggested that it is important to recognize these applicants, regardless of where they were trained, and to give *them* fair consideration as well.

Successful completion of approved residency training is a key requirement for obtaining an Independent Practice Certificate. The OFC has identified access to an approved residency program as a significant barrier for IMGs pursuing registration. Providing alternatives for these individuals would improve the CPSO’s registration processes. The OFC recommended that the CPSO explore alternatives to the residency program to provide qualified applicants with options for satisfying the residency requirement.

| A number of our employers, particularly those in the health care sector, are impacted by regulatory bodies and were very happy to hear about the work that your office is doing to ensure fair and timely credential recognition.

– Henry Akanko – Director – Hire Immigrants Ottawa |

MINISTRY OF NATURAL RESOURCES

Ontario Professional Foresters Association (OPFA)

The OPFA has been working with all the professional forestry regulatory bodies in Canada² to change these bodies' criteria for membership – to focus on core knowledge, to allow for more flexibility and to look at competency rather than only education credentials. The new competency-based criteria have been approved by all the provincial professional forestry councils involved, and will be applied in parallel with the old education standards until 2015. The previous local experience (or equivalent) requirement remains in place.

The OPFA continues to work on its compliance with the Agreement on Internal Trade with respect to the transfer of registered professional foresters among provinces. It appears that the OPFA's forest policy and administration exam process is acceptable, but other provinces have been advised that their comparable exams are unacceptable. According to the OPFA, resolution of this issue will require cross-government concurrence.

The OPFA plans to review its by-laws in 2009 to formalize new mechanisms for appeal of its registration decisions.

Association of Ontario Land Surveyors (AOLS)

The AOLS submitted proposed changes to its registration regulation to the ministry in the summer of 2008. The changes include removing the requirement for Canadian citizenship or permanent resident status, and giving the association's academic and experience requirement committee the option to waive the term of articles for applicants in good standing in another jurisdiction (not only in a Canadian jurisdiction). The OFC recognizes these as positive steps towards reducing barriers to registration.

As of March 31, 2009, the ministry was still reviewing the changes.

MINISTRY OF NORTHERN DEVELOPMENT AND MINES

Association of Professional Geoscientists of Ontario (APGO)

In early 2009, the APGO submitted proposed revisions to its registration regulation to the ministry for review. Several of the changes are intended to clarify portions of the regulation that already exist – those related to time-limit requirements for a practising licence, a temporary licence and a limited licence. The revisions also define the number of times a temporary licence may be granted.

Additional revisions related to the limited licence alter the conditions for holding it. The holder will continue to be entitled to provide only the services specified in the certificate, but will no longer be limited to working for a specific employer, will no longer need to be supervised by a practising or temporary member and will be able to sign and seal documents using the appropriate designation.

Finally, the revisions also make changes to the definition of "qualifying work experience." Qualifying experience will not include work experience that has been obtained through the illegal practice of geoscience, including experience that was not acquired under the supervision of a professional geoscientist or a professional engineer qualified to conduct geoscience.

As of March 31, 2009, the ministry was reviewing these proposed revisions.

² With the exception of Quebec's. There are no professional forestry associations in Manitoba or Prince Edward Island.



statistical snapshot of the regulated professions

The numbers in this section of the report derive from the 2008 Fair Registration Practices reports filed with the OFC by the 34 regulatory bodies that were registering members during the 2008 calendar year.

In 2008, Ontario's regulated professions had 707,718 members. See Figure 1 for a breakdown of members by profession and where they received their training.

The 10 largest regulated professions by number of members were as follows (listed from largest to smallest) (see Figure 2):

1. teachers
2. nurses
3. engineers
4. lawyers (including paralegals)
5. physicians and surgeons
6. chartered accountants
7. general accountants
8. management accountants
9. engineering technicians and technologists
10. social workers and social service workers (combined)

Together, these 10 groups accounted for 87 per cent of the 707,718 regulated professionals in the province, with teachers and nurses alone accounting for over 50 per cent of that number.

Figure 1. Number of Members in Ontario's Regulated Professions, 2008, and Where They Received Their Training

Profession ¹	Ontario	Other Provinces and Territories	International	Unknown	TOTAL	Proportion of Internationally Trained Members
Architects ²	1,331	544	709	27	2,611	27%
Audiologists and Speech-Language Pathologists	1,539	482	1,124	31	3,176	35%
Chartered Accountants	30,651	1,697	797	0	33,145	2%
Chiropractors ²	2,529	3	1,008	0	3,540	28%
Dental Hygienists	9,239	353	775	N/A	10,367	7%
Dental Surgeons	4,969	1,094	2,105	N/A	8,168	26%
Dental Technologists ²	198	9	134	142	483	28%
Denturists	510	7	23	0	540	4%
Dietitians	2,022	709	174	0	2,905	6%
Engineering Technicians and Technologists	11,536	553	2,840	0	14,929	19%
Engineers	42,153	9,805	17,759	1,778	71,495	25%
Foresters ²	581	102	8	2	693	1%
General Accountants ³	15,658	N/A	1,760	1,447	18,865	9%
Geoscientists ²	892	272	287	6	1,457	20%
Land Surveyors	N/A	N/A	N/A	637	637	N/A
Lawyers	N/A	N/A	N/A	N/A	40,000	N/A
Management Accountants	11,149	1,389	1,462	3,444	17,444	8%
Massage Therapists ²	8,152	33	39	75	8,299	0.5%
Medical Laboratory Technologists	690	96	278	6,686	7,750	4%
Medical Radiation Technologists	5,483	395	446	0	6,324	7%
Midwives ²	257	4	N/A	121	382	N/A
Nurses ²	129,531	4,134	14,932	687	149,284	10%
Occupational Therapists	3,540	445	452	0	4,437	10%
Opticians	527	138	20	1,571	2,256	1%
Optometrists ²	1,222	43	340	0	1,605	21%
Paralegals	N/A	N/A	N/A	N/A	2,300	N/A
Pharmacists	5,423	1,830	4,155	0	11,408	36%
Physicians and Surgeons	18,362	6,218	9,320	0	33,900	27%
Physiotherapists	4,838	798	1,244	0	6,880	18%
Psychologists	2,136	360	557	0	3,053	18%
Respiratory Therapists	2,374	192	74	0	2,640	3%
Social Service Workers	1,143	N/A	26	11	1,180	2%
Social Workers	10,209	N/A	1,127	81	11,417	10%
Teachers ²	174,262	13,356	31,563	0	219,181	14%
Veterinarians	2,971	343	614	N/A	3,928	16%
Total	506,457	45,404	96,273	16,746	707,718	

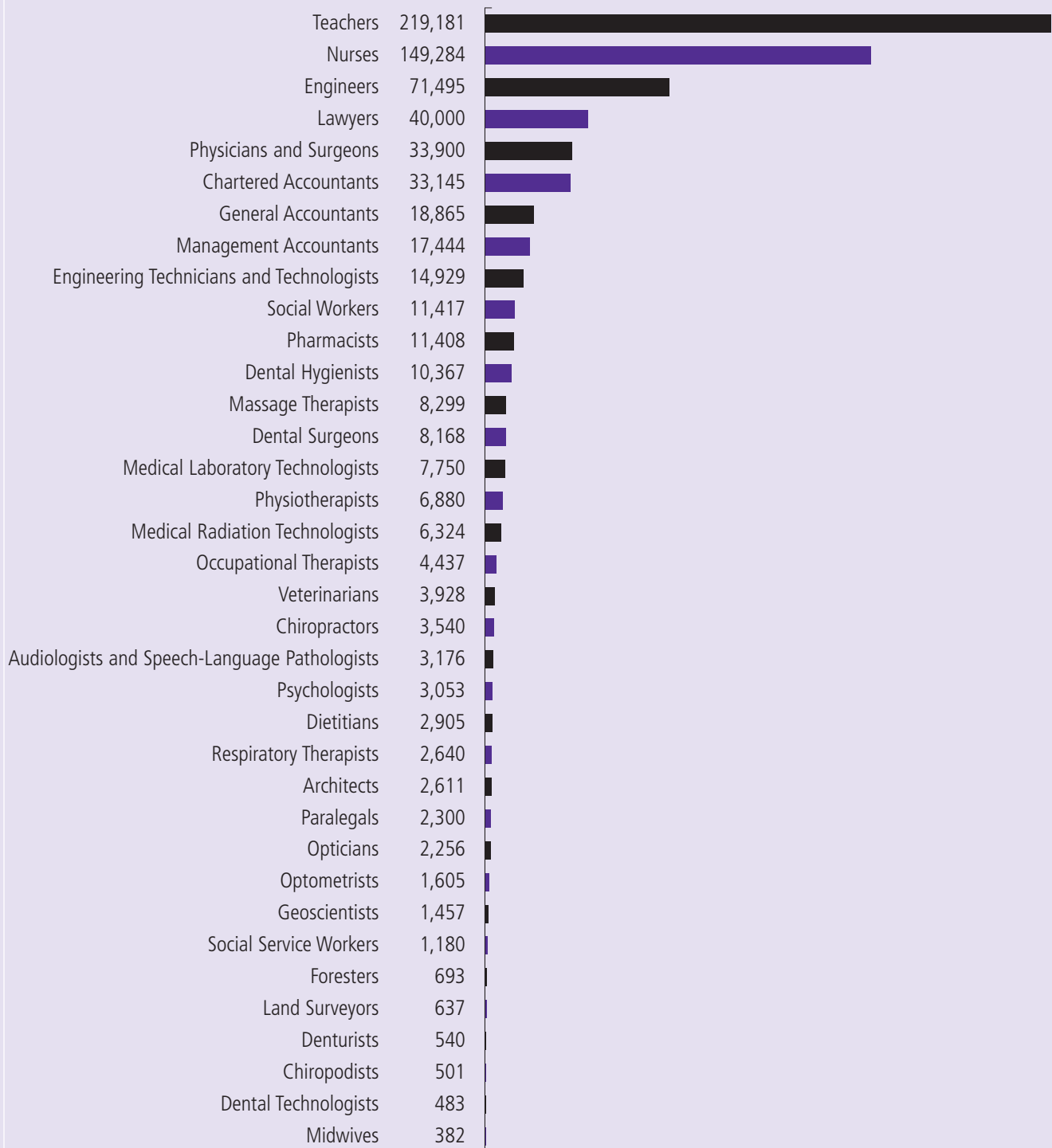
N/A = not available

¹ The Law Society of Upper Canada regulates paralegals as well as lawyers, and the Ontario College of Social Workers and Social Service Workers regulates the two groups represented in its name. Because these two regulatory bodies have different registration practices for each of the groups under their authority, they each filed two separate Fair Practices Reports. For that reason, numbers for the two groups are reported separately in this table.

² Non-practising members are not included in the totals for these professions.

³ The Certified General Accountants of Ontario's data collection procedures only began to distinguish between Ontario and other Canadian provinces (as the location of applicants' training) on June 1, 2007.

Figure 2. Membership in Ontario's Regulated Professions by Profession, 2008



The 10 professions with the highest number of internationally trained members (listed from largest to smallest number of internationally trained members) were as follows (see Figure 3):

1. teachers
2. engineers
3. nurses
4. physicians and surgeons
5. pharmacists
6. engineering technicians and technologists
7. dental surgeons
8. general accountants
9. management accountants
10. physiotherapists

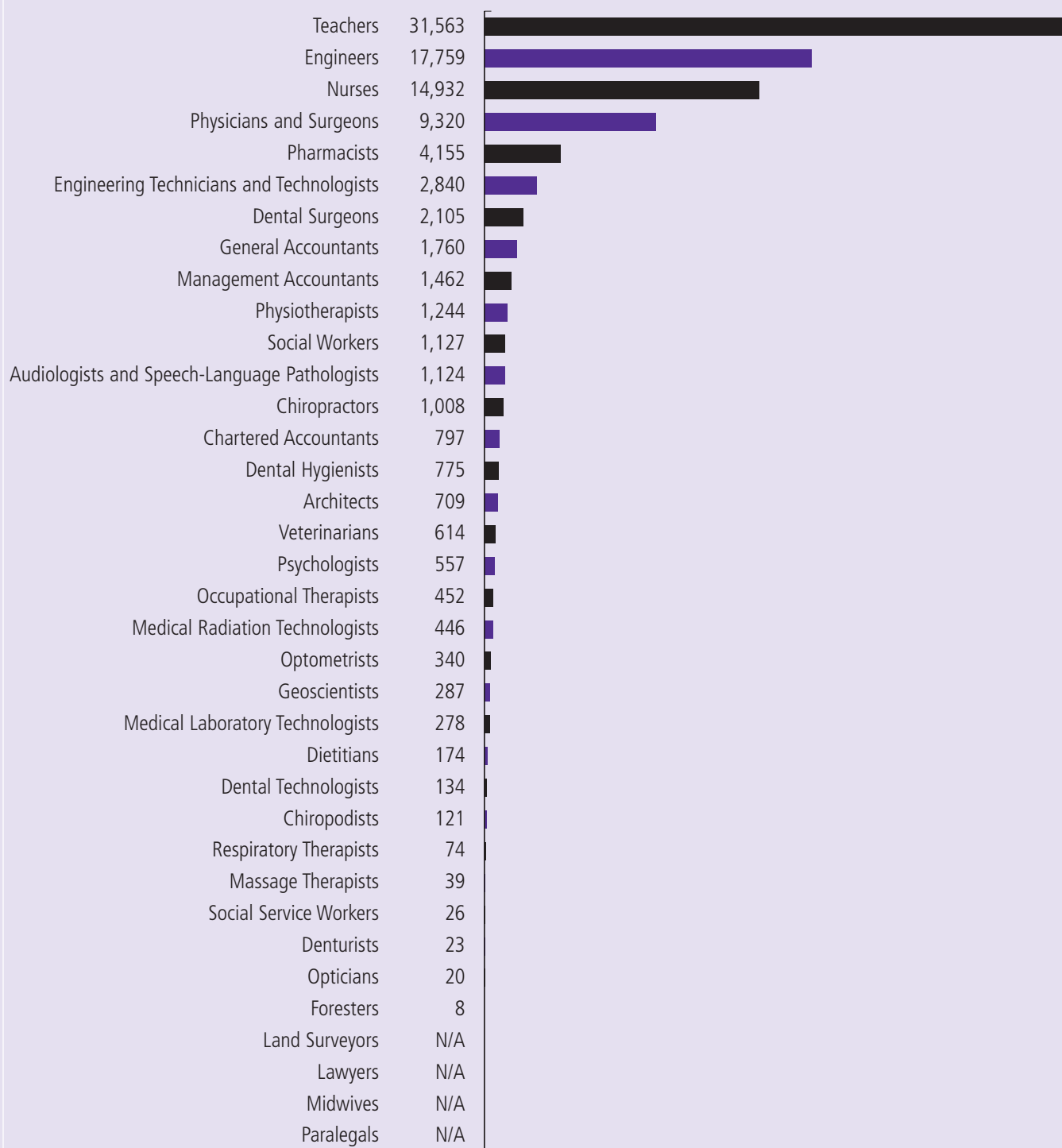
Not all professions keep track of where their members were trained³, but of those that do, the percentage of their membership that was internationally trained varied widely, from 0.5 per cent to 36 per cent (see Figure 1.)

In 2008, the 10 professions with the highest proportion of internationally trained members were as follows:

- pharmacists (36%)
- audiologists and speech-language pathologists (35%)
- chiropractors (28%)
- dental technologists (28%; tied with chiropractors)
- physicians and surgeons (27%)
- architects (27%; tied with physicians and surgeons)
- dental surgeons (26%)
- engineers (25%)
- chiropodists (24%)
- optometrists (21%)

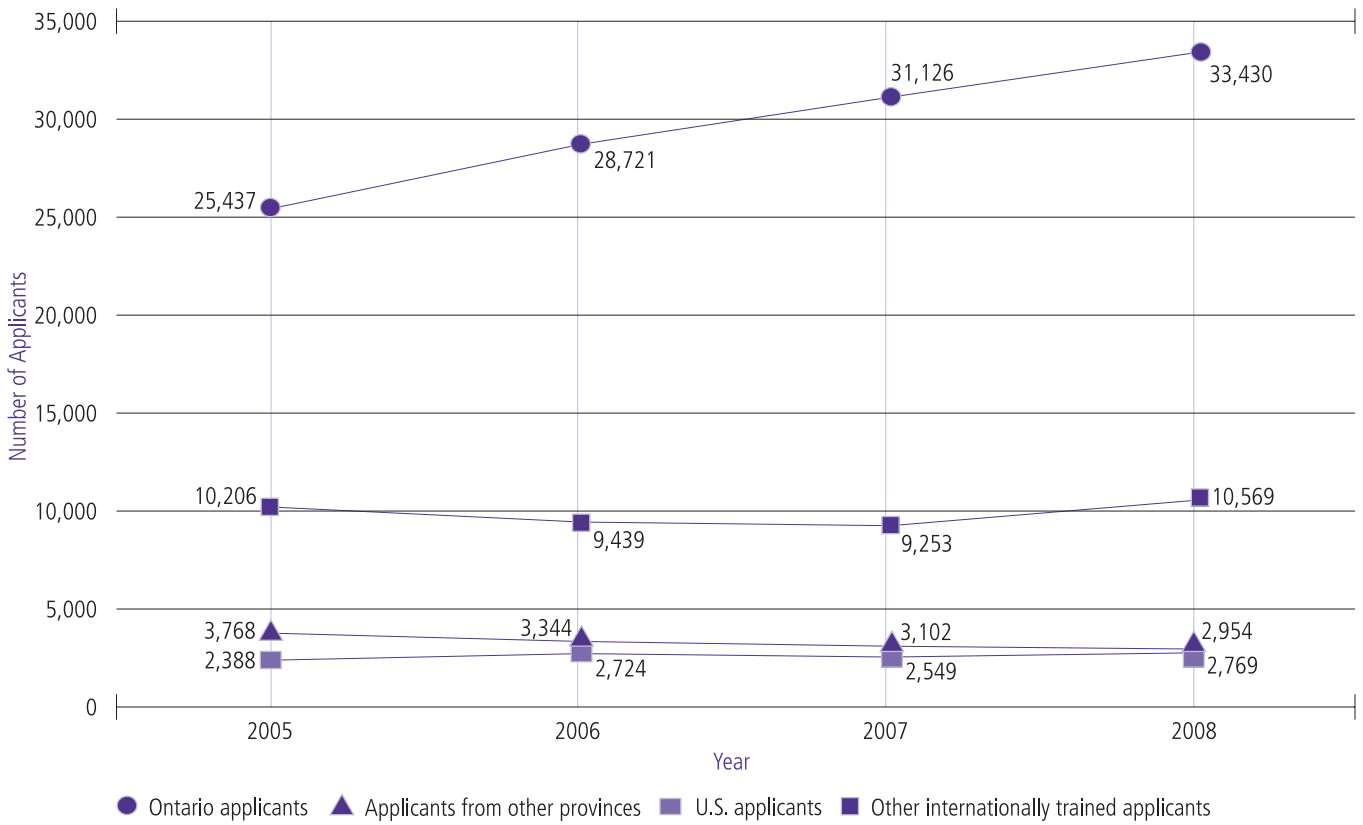
³ Only regulated professions that keep track of where their members were initially trained appear in the preceding list and in all figures and text that refer to internationally trained members. The three professions that do not keep track of this information are the Law Society of Upper Canada (one of Ontario's 10 largest regulatory bodies), the Association of Ontario Land Surveyors and the College of Midwives of Ontario. The College of Chiropractors of Ontario reported numbers for internationally trained members for the first time in 2008.

Figure 3. Internationally Trained Members in Ontario’s Regulated Professions by Profession, 2008



From 2005 to 2007, applications from internationally trained individuals (excluding those trained in the United States) declined. In 2008, they rose slightly. For the third year in a row, applications from other Canadian provinces and territories declined. (See Figure 4.)

Figure 4. New Applicants to Ontario’s Regulated Professions by Year, 2005–08¹



¹ The numbers in this figure do not include applicants whose training location is unknown.

From 2005 to 2007, applications from internationally trained individuals (excluding those trained in the United States) declined. In 2008, they rose slightly. For the third year in a row, applications from other Canadian provinces and territories declined.

India ranked first or second as the source country for seven out of the top 10 professions that have internationally trained members (see Figure 5). Overall, India and the United States were source countries for 32 of the 34 regulatory bodies.

Figure 5. The Top Five Source Countries for Internationally Trained Applicants in Ontario’s 10 Largest Professions, 2008

Professions (in descending order of number of internationally trained members)	Country Where Training Was Received				
	First	Second	Third	Fourth	Fifth
Teachers	U.S.	Australia	India	U.K.	Jamaica
Nurses	Philippines	India	Nigeria	U.K.	China
Engineers	China	India	Iran	Pakistan	Bangladesh
Lawyers	U.S.	India	Australia	U.K.	Nigeria
Physicians and Surgeons	India	Saudi Arabia	U.K.	Egypt	Pakistan
Chartered Accountants	U.S.	U.K.	South Africa	India	Mexico
General Accountants	India	China	Philippines	U.S.	Pakistan
Management Accountants	U.S.	Philippines	China	India	Pakistan
Engineering Technicians and Technologists	India	Philippines	Pakistan	Sri Lanka	Bangladesh
Social Workers	U.S.	India	U.K.	Pakistan and Ireland ¹	South Africa

¹ Tied.

| The Office of the Fairness Commissioner has provided valuable assistance in our ongoing effort to serve and protect the public interest where engineering is concerned. The office has worked with us on regulation changes related to licensing requirements, provided insightful comments on a proposed national licensing framework and engaged us to help shape its reporting and audit requirements.

– Kim Allen, P.Eng. – CEO/Registrar – Professional Engineers Ontario |



looking ahead

In the coming year the OFC will work towards four broad goals:

1. assessing regulatory bodies' compliance with the fair access legislation by analyzing the information filed through the various reporting, audit and review procedures that have been established
2. continuing to take a proactive approach to communications with stakeholders
3. identifying and addressing emerging issues, as Ontario's regulatory bodies implement fairer registration practices and as other jurisdictions take action in this area
4. serving as a provincial and national resource on the issue of fair registration practices

A major issue that the OFC will be monitoring in the coming year is labour mobility – both within Canada and in the move to accelerate the recognition of internationally trained professionals. The Agreement on Internal Trade and the proposed foreign qualifications recognition framework⁴ will have wide-ranging implications for the regulatory bodies and for the role of the OFC, but these implications are unclear at this time.

The calls for labour mobility and for accelerated assessment and recognition of foreign credentials were initiated long before the emergence of the financial crisis in the fall of 2008. At the time this report was being written, the overall economic picture remained uncertain, and the effects of the recession on the regulated professions, on labour mobility within Canada and on immigration patterns in Canada unknown.

⁴ In December 2008, Prime Minister Stephen Harper proposed the development of a “single comprehensive approach to credential assessment and recognition across all jurisdictions with an initial priority on regulated occupations.” In January 2009, First Ministers directed the Forum of Labour Market Ministers to develop an interim report by June 2009, a Pan-Canadian Framework for Foreign Qualification Recognition by September 2009 and a critical path and implementation plan by September 2009, and to implement a prioritized list of initial regulated occupations by December 2010.

As stated earlier in this report (see page 13), the OFC believes that fair access to registration in the regulated professions and labour mobility are compatible and their principles consistent. Both have the same goal – to remove barriers to access to the professions for all qualified applicants.

| The Office of the Fairness Commissioner is indeed taking a leading role. Its thoughtful, collegial approach and forward thinking is helping to create real change – encouraging a more equitable and fair system through which both Canada and its new citizens can benefit.

– *Ximena Munoz* – *Manitoba Fairness Commissioner* |

financial statements



Clarkson Rouble LLP
Chartered Accountants

Auditors' Report

To the Fairness Commissioner

We have audited the balance sheet of the **Office of the Fairness Commissioner** as at **March 31, 2009** and the statements of operations and operating surplus and cash flows for the year then ended. These financial statements are the responsibility of the Office's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Office as at **March 31, 2009** and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Mississauga, Ontario
April 8, 2009

Clarkson Rouble LLP

Clarkson Rouble LLP
Chartered Accountants
Licensed Public Accountants

balance sheet

As at March 31

	2009	2008
Assets		
Current		
Cash	\$ 113,510	\$ 28,520
Short term investments	–	102,497
Accounts receivable	6,217	464
Prepaid expenses	15,858	636
	135,585	132,117
Capital assets (Note 3)	32,035	32,911
	\$ 167,620	\$ 165,028
Liabilities		
Current		
Accounts payable and accrued liabilities	\$ 56,573	\$ 56,162
Surplus		
Operating	111,047	108,866
	\$ 167,620	\$ 165,028

On behalf of the Office:



Commissioner

statement of operations and operating surplus

Year Ended March 31

	2009	2008
Revenues		
Ministry of Citizenship and Immigration	\$ 1,739,900	\$ 1,189,900
Interest income	12,873	9,791
	1,752,773	1,199,691
Expenses		
Salaries, wages and benefits	994,155	618,808
Services	563,672	283,196
Office administration	126,409	134,817
Transportation and communications	53,076	43,205
Amortization	13,280	10,799
	1,750,592	1,090,825
Excess of revenues over expenses	2,181	108,866
Operating surplus, beginning of year	108,866	–
Operating surplus, end of year	\$ 111,047	\$ 108,866

statement of cash flows

Year Ended March 31

	2009	2008
Operating activities		
Excess of revenues over expenses for the year	\$ 2,181	\$ 108,866
Items not requiring an outlay of cash		
Amortization	13,280	10,799
	15,461	119,665
Net change in working capital items		
Operating working capital		
Accounts receivable	(5,753)	(464)
Prepaid expenses	(15,222)	(636)
Accounts payable and accrued liabilities	411	56,162
(Decrease) increase from operating activities	(5,103)	174,727
Investing activity		
Purchase of capital assets	(12,404)	(43,710)
(Decrease) increase in cash	(17,507)	131,017
Cash, beginning of year	131,017	–
Cash, end of year	\$ 113,510	\$ 131,017
Represented by:		
Cash	\$ 113,510	\$ 28,520
Short term investments	–	102,497
	\$ 113,510	\$ 131,017

