



**Regulation Matters:
a CLEAR conversation**

Episode 85: Freedom of Expression and the Role of the Regulator January 14, 2025

Line Dempsey: Welcome back to our podcast, Regulation Matters: a CLEAR conversation. Once again, I'm your host, Line Dempsey. I'm currently the chief compliance officer with Riccobene Associates Family Dentistry with locations in North Carolina, South Carolina, and Virginia. And I've also been a board member and past president of CLEAR.

As many of you are aware, the Council on Licensure, Enforcement and Regulation, or CLEAR, is an association of individuals, agencies, and organizations that comprise the international community of professional and occupational regulation. This podcast is an opportunity for you to hear about important topics in our regulatory community.

Today's topic gets into an issue that has received a lot of media coverage lately relating to freedom of expression, the rights and responsibilities of regulated professionals, and the role of professional regulators. Joining us today is Scott McLeod. He is registrar and CEO of the College of Physicians and Surgeons of Alberta. We're super glad to speak with you today.

Scott McLeod: Oh, it's very nice to be here today, Line, and I'm looking forward to our conversation.

Line: Absolutely. So, in a [recent joint article](#) penned by you and the College Council Chair, Dr. Jaelene Mannerfeldt, the College of Physicians and Surgeons of Alberta shared your perspective on balancing freedom of expression and professional responsibilities. This is something that certainly has been a topic of interest to me, especially when we get into social media things. But can you kind of set the stage for our conversation today? What is happening in Alberta and across Canada that prompted this article?

Scott: Sure, I'd love to share that. So to start with, it really stems back to some proposed legislation change that government brought forward talking about protecting professionals' rights to freedom of speech. And in that announcement and throughout the kind of following week, it became quite clear to us that there was a misunderstanding, or at least we felt there was a misunderstanding, about what our intent is as a regulator and how it's being perceived. And so, it kind of forced us into a reflective mode to ask ourselves, 'Are we actually meeting the intent that we had intended in our

communications to the profession? Or did we actually have our regulation controlling physicians' freedom of speech?' So, it made us step back and think about that in a deeper way.

And then we decided that creating an article like what was in the Messenger there was present to clarify what our thoughts were around freedom of speech and hopefully clarify intent more so than what I think we had in some of our other documents.

Line: Well, can you maybe elaborate on the key challenges physicians face when basically trying to balance their right to free expression with their professional responsibilities, particularly when addressing controversial topics?

Scott: Yeah, I think one of the challenges for many physicians is the fact that you are a citizen. You've got lots of opinions that are out there, whether that's a political opinion, a religious opinion; there's all kinds of opinions that we all have as citizens, and we all have the right to share those opinions. But we're also physicians that are trained and licensed to practice in some way.

And sometimes that identity is challenged. But where does one begin, and where does one end? And it's a difficult space for any regulated health professional to be in, I think really any regulated professional, but for physicians it's challenging because the trust that physicians have in the public means that anything that is stated, especially when it's tied to a medical degree, can come across as a professional opinion, as opposed to a personal opinion. And that's a difficult balance for many people. And as a regulator, we don't want to in any way limit somebody's freedom to express their religious belief or their political belief. We believe people should have that freedom. The question is, when does that translate into safety for patients? And when are patients going to be put at risk because of that professional position that the person holds. It's a difficult line, and I think it's challenging for anybody to find out where that line is.

Line: So, I guess from a regulatory standpoint, how does the CPSA approach cases where a physician's public statements might conflict with either professional standards or public trust?

Scott: It really comes down to how it may affect patient care and safety to patients. If you're making statements that are directly related to how patients will choose to get their care or access care because they are listening to the medical degree that may be there, that's where it starts getting challenging. If you're not leveraging your MD to express that opinion, if you're not coming out and saying, 'I'm a doctor, therefore, you should believe this,' it's different than coming out and saying, 'These are my personal beliefs. I believe in X. And this is why I believe this,' but not coming out and saying, 'I'm an MD with 30 years of experience and that's why you should believe me in this.' And then it influences how patients make their decisions on access to care.

That, I think, is the difference. But it's hard for people to separate themselves in their identity from being a physician to being a citizen. And the two are so closely tied together, it's often difficult to walk that line.

Line: Yeah, absolutely. I remember multiple things in the news related to the pandemic and people's opinions on vaccinations and whether or not you should or shouldn't, and it certainly blurred the lines, I think, in some areas.

Now, I know social media has certainly amplified physicians' public voices. It's now just kind of almost mandatory that you have a social media account for your marketing, et cetera. But when people have that, how did these social media platforms complicate this line between personal expression and professional accountability?

Scott: Well, I think the biggest challenge with social media is that it is a powerful tool. It's an incredible opportunity to share your thoughts very broadly. But with that also comes significant risk, because if your opinion is perhaps not in alignment with conventional medical practice, and you have a very broad dissemination of that thought, and it could cause harm.

You mentioned the pandemic where there were a lot of people posting their opinions on things. That has a dramatic impact on large numbers of people and the way that they are going to access the care. And so, with tremendous benefit, there's also tremendous risk associated with it. It just means that physicians, or really any health care provider, need to be careful that whatever they say may go very broad.

The other thing that it can do is, other people can jump onto that thought and perhaps take it in other directions or leverage it to their personal advantage. So, it could just be a jumping off point for other people to share their thoughts as well, which may or may not be in the best interest of the public as a whole.

Line: And I'm sure it complicates things when you have a practitioner that is involved with a larger group. Like for example, I instituted a social media policy five years ago when I took the job as chief compliance officer partly because we also had a reputational risk as a company. And while we certainly didn't want to impact one of our practitioner's ability to have freedom of speech, we also wanted to make sure that as a representative of the company that they were not going down a path that could potentially harm our company. So, I guess, you know, as we look at the increasingly diverse healthcare environment that we have now, how should physicians approach how they express themselves in order to avoid unintentionally alienating or harming patients that come from different cultural or social backgrounds?

Scott: Well, I think the key is grounded in respect and respectful communications and being open to the diversity of opinion and thought that is out there. And we, as regulators, also have to have that openness to diverse opinions and diverse perspectives. And sharing your thoughts in a way that says that these thoughts are to stimulate debate or discussion or whatever may be out there without targeting a population. This is about sharing perspectives. It should not be about targeting individuals. It should not be about targeting groups. It should be about trying to learn and grow and develop as

professions, and we should have healthy, open debate. But, you know, the Canadian Charter of Rights and Freedoms exists to allow people to have freedom of speech, but even it has limits- that you cannot threaten other people, you cannot stimulate hate speech. And those are destructive forms of speech that are not productive in public safety.

Same as the Code of Ethics and Professionalism that we've adopted with CPSA here. It's the Canadian Medical Association's code of ethics and professionalism that basically states that there are some limits to where you need to have your professional responsibility, that you're free to have open debate, but it needs to be in a respectful manner as well.

So, it really fundamentally gets grounded in respect for others.

Line: Now, I know that some critics might argue that regulating physician expression stifles important discourse. You know, even, I think I had a talk several years ago where the question was, if a practitioner says something that's inappropriate or their point of view that doesn't align with yours as a patient, then you see that and you can go, 'okay, well, I don't want to go see that guy.' And therefore, it kind of helps with their decision process from the public. But I guess, how do you respond to these concerns about, specifically, overreach or suppression of legitimate debate within the medical community?

Scott: Well, I think overreach is something that's talked about a lot, and you can certainly understand where the concept of overreach comes from. Just in the name, being a 'regulator' sounds like we're controlling and stopping people from advancing and thinking in productive ways and so forth. But fundamentally, it's dangerous to limit public discourse as long as it is a respectful discourse that clearly states that you know, if you're a physician, you're going to state that I have a viewpoint that is different than what the conventional viewpoint is. And this is why I'm sharing this, because I believe we need to think in a different way. I believe that there's another way of approaching this problem.

That's a lot different than saying, 'I believe this, and it is right, and everybody else is stupid.' There's a very different way of communicating that, and history has demonstrated that many people have brought forward diverse thoughts, diverse ways of seeing things, and it was rejected by the profession to begin with, and then turned out to be correct. And I'm sure there's going to be lots of things that we did during the pandemic that may eventually turn out to be wrong, but they're based on what the best conventional thinking was at the time. But we, as regulators, also need to be open to hearing those other beliefs.

When we talk about the scientific method, the scientific method is fundamentally grounded in coming up with new theories and new ways of seeing and doing things. But the second part of a scientific method is then to develop the research and the experimentation to prove or disprove that theory. We don't just accept the theory as a theory and start implementing it and then applying a treatment based on a theory without it being grounded in evidence. So, sharing and having open discourse is great. And that can drive the research that can teach us what to do next.

But we can't just stop at the open debate. We must take it further into having the research support it. So coming out and saying something is right because you believe it is very different than saying, 'I think we need to look at it in a different way and start proposing research or proposing ways of assessing that.' And then I think we can move forward.

So, the last thing we want is to create an environment where people cannot share differing opinions. Because that's the only way we're going to advance the system that we work in today.

Line: Absolutely. Well, I guess looking ahead, how do you see the interplay between freedom of expression and professional regulation evolving, especially with new challenges like misinformation or artificial intelligence?

Scott: Yeah, I think it's going to be a very challenging space for all of us to work in. But we, as regulators, have to stop and ask ourselves, 'What are we trying to achieve?' We have to continue to allow the professions to advance and grow as artificial intelligence becomes more prevalent and as the prevalence of misinformation exists.

And there's a risk associated with that as well. But ask ourselves, 'Are we open to hearing other new and innovative approaches to how we do things as well?' We need to be open to hear those and reflect on them. There will be times where we hear things and we genuinely hear it, but we disagree with it too. But does that person feel heard? And oftentimes, some people will not feel heard because you don't agree with them. There's a big difference between hearing somebody and disagreeing, or hearing people or not hearing people at all. And we need to be sure that we're listening to people and we may not agree with them. But have we listened to understand what their perspective is? And then if we still decide not to agree with them, then that's fine. We've at least consciously paid attention to whether we've heard that opinion or that perspective.

Line: Well, that's great. Well, I think this has been certainly an interesting topic that is going to be continuing to ongo with debate and interest over the years, and finding the right balance is definitely going to be challenging. But thank you, Scott, for speaking with us today.

Scott: Thank you, Line. It was a great conversation. I look forward to seeing more come out on this topic.

Line: Absolutely. And it has been a pleasure, and we'd love to continue this conversation with our members on the CLEAR Regulatory Network. This podcast episode will be posted there, along with some questions for our members to consider.

For example, how do processes at your regulatory body balance licensees' or registrants' freedom of speech with your responsibility to also protect the public? Another question would be, are you seeing an increase in complaints to your regulatory organization related to professionals' off-duty conduct or

controversial public statements?

We greatly appreciate and thank our members for your discussion and feedback in the CLEAR Regulatory Network. If you haven't already, we invite and encourage you to join and take part in the online discussions.

I also want to thank our listeners for tuning in for this episode. We'll be back with another episode of Regulation Matters: a CLEAR conversation very soon. And if you're new to the CLEAR Podcast, please subscribe to us. You can find us on Podbean or any of your favorite podcast services. If you've enjoyed this podcast episode, please leave a rating or comment in the app. Your reviews help us improve our ranking and make it easier for new listeners to find us.

Feel free to also visit our website at www.clearhq.org for additional resources as well as a calendar of upcoming programs and events.

Finally, I'd like to thank our CLEAR staff, specifically Stephanie Thompson. She's the content coordinator and editor for this program. Once again, I'm Line Dempsey, and I hope to be speaking to you again very soon.

*The audio version of this podcast episode is available at
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