

CONSTRUCTIVE CRITICISM

Ontario Chamber of Commerce Submission to the Dean Review
of the Ontario College of Trades

About the Ontario Chamber of Commerce

The Ontario Chamber of Commerce (OCC) is an independent, non-partisan business network. Our mission is to support economic growth in Ontario by advocating for pro-business policies and defending business priorities at Queen's Park.

For more than a century, the OCC has been providing our members with practical supports, advantageous network opportunities, and access to innovative insight and analysis. We represent local chambers of commerce and boards of trade from communities across Ontario. Through this network we are the voice of 60,000 members that range from small businesses to major corporations and industry associations.

Together, our members employ approximately two million people and produce nearly 17 percent of Ontario's GDP. The OCC is Ontario's business advocate.

For more information about this submission, contact:

Andrea Holmes
Senior Policy Analyst
Ontario Chamber of Commerce
andrea.holmes@occ.ca | 416.482.5222 ext. 2470



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Mr. Tony Dean,

Thank you for providing us with the opportunity to express our members' concerns regarding key areas of Ontario's skilled trades system that fall under the mandate of the Ontario College of Trades (the College).

Building a 21st century workforce is a core component of the Ontario Chamber of Commerce's (OCC) five year *Emerging Stronger* economic agenda for Ontario. Keeping the province's economy firmly on the path from recovery to growth will require an adaptable and highly skilled labour pool. A modern apprenticeship system and a regulatory climate that is flexible and responsive to labour market needs are crucial factors to achieving this.

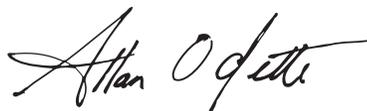
In its current form, the College is not positioned to deliver on many elements of its mandate. Over the last year, concerns have mounted over its compulsory membership structure, and the bias inherent to its trade classification review process. Additionally, the implications of expanding the range of compulsory trades have not yet been fully analyzed or adequately debated, and decisions appear to be made without sufficient objective evidence to support outcomes.

In partnership with our network of chambers of commerce and boards of trade throughout the province, we have led the conversation about reforming the College since its creation in 2009. In October 2013, we released the report, *Caution: Work Ahead*, which highlights a number of serious issues facing the College and provides six recommendations that, if implemented, will make the College more responsive to employers' evolving needs. It is our hope that your review will address the problems identified in our report and remedy some of the larger challenges faced by Ontario's skilled trades system.

It should be noted that our membership has expressed disappointment that the scope of your review does not extend to journey person-to-apprentice ratios, the ratio review panel process, apprenticeship training, and the promotion of the skilled trades among the province's youth. It is our hope that these concerns can be discussed in detail through in-person consultations with local chambers of commerce and boards of trade in communities across the province.

Thank you for taking the time to review this submission. We look forward to providing our input throughout the upcoming consultations that you will be holding as part of your review.

Sincerely,



Allan O'Dette
President and CEO
Ontario Chamber of Commerce



Ontario Chamber of Commerce
180 Dundas Street West, Suite 1500
Toronto, ON M5G 1Z8

416.482.5222

occ.ca
@OntarioCofC

IS THE COLLEGE CURRENTLY PROTECTING THE PUBLIC INTEREST?

According to the *Ontario College of Trades Apprenticeship Act* (OCTAA), the College has a duty to serve and protect the public interest. In its current form, however, we find that the College is not successfully meeting this aspect of its mandate.

One of our chief concerns is that by virtue of its incentive structure, rules and decisions developed by the College tend to favour its own economic interest, often at the expense of public and professional interests.

In its current form, the OCTAA does not explicitly include a definition of “public interest”, or any list of topics to be considered by the College in advancing this interest. Instead, it simply states the College “has a duty to serve and protect the public interest in carrying out its objectives and its functions under this Act” (Section 10).

This lack of definitional clarity appears to have limited the College’s understanding of public interest to protecting the interests of consumers. As a result, the College emphasizes certain tenets of its mandate over others, focusing overwhelmingly on regulating the trades and enforcing compliance.

In doing so, it has paid little attention to other crucial elements of its mandate, including: promoting the practice of trades; determining appropriate journey-person-to-apprentice ratios for trades subject to ratios; determining whether a trade should have compulsory certification status; and conducting research in relation to trades.

In order to realign the College’s duty to operate in a way that maximizes the public benefit, the definition of “public interest” must be expanded to include the interests of professionals, clients, and employers. In addition, the definition must be informed by the principles of efficiency, flexibility, and what is good for the economy.

Regulatory bodies like the College can also protect the public interest by creating flexibility in how professional practices are delivered so that they are done so with maximum efficiency.¹

The protection of the public interest also requires the exercise of public accountability. The College must demonstrate that it is exercising its statutory duties to the public by successfully fulfilling its mandate, but also that its actions, particularly with respect to the rules that it develops and the regulatory system that it enforces, are shown to be necessary and justifiable to protect this interest.²

¹ Adams, Tracey L. Professional Self-Regulation and the Public Interest in Canada. Report Presented to Interim Conference on Challenging Professionalism, The School of Economics and Management (ISEG), Lisbon, Portugal, Friday November 29, 2013.

² Mysicka, Robert. 2014. Who Watches the Watchmen? The Role of the Self Regulator. C.D. Howe Institute.

HOW SHOULD THE COLLEGE ADVANCE THE PUBLIC INTEREST?

Consider the Broader Economic Impact & Fill the Data Gap

Advancing the public interest will require the College to consider the broader economic impact of its decisions. This entails weighing the interests of different segments of the public through robust stakeholder input and accessing and generating objective evidence to support decision-making.

In our 2013 report *Caution: Work Ahead*, we draw attention to the data vacuum in which apprenticeship-to-journeyperson ratios and trade classifications are determined. The College does not have access to sophisticated labour market data, particularly with respect to current and projected skills shortages in the trades. This absence of data hurts its ability to develop effective, evidence-based policies that reflect evolving labour market realities and protect the interests of different segments of the public.

The Trade Classification Panel for the Sprinkler and Fire Protection Installer Review echoes our concern:

This lack of clear evidence of a connection has troubled us significantly. Leaving aside the question of onus...there has been a lack of specific evidence connecting making the trade mandatory and the obvious dangers of fires and the obvious efficacy of sprinkler systems reducing that danger. Frequently, in the ratio reviews, panels when in doubt with respect to the impact of this criterion erred on the side of safety.

Nonetheless, the College stresses that it is “not responsible for gathering data and providing it to the broader community” (Ratio Review 1-2012). Individuals and organizations that wish to participate in the College’s review processes are therefore responsible for mining the various sources of information in the community and securing data to support their positions—a resource-intensive task for many individuals and smaller organizations.

The College is also making decisions without broader representation of stakeholder opinion and without an understanding of the needs of regions and employers from across the province. In particular, there is a lack of employer representation from small and medium enterprises (SMEs).

Unions and business/trade associations have superior resources and greater capacity to influence the decision-making process than smaller employers and individuals, who are unable to meet the lengthy, arduous and data-intensive requirements associated with making written and oral submissions. As a result, the decisions coming out of these processes tend to favour larger, well-funded organizations that have the capacity to build the evidence base for their submission.

This asymmetry was recognized by the College: “We appreciate that there may be a resource imbalance between unions and employers in this process.... There is nothing

that the Review Panel can do to alleviate an imbalance of that nature. Nor can the College”.

Since reviews are based on information provided in submissions, the quality of comments has the ability to influence the probability that the Review Panel will incorporate proposed changes into their final ruling. As such, it is more likely that association and union interests will enjoy disproportionate influence over outputs. Given the complex and existential nature of the questions included in this review process, similar outcomes are likely.

Reform the Trade Classification Review Process

Decisions regarding the classification of trades are particularly important to Ontario's economy, as compulsory certification is more expensive to employers and apprentices (and therefore consumers). In addition, compulsory certification could have a disproportionately negative impact on SMEs and the number of workers entering the voluntary trades.

Our members have frequently expressed concerns with the trade classification review process, and applaud the decision to pause any additional classification decisions until the process is remedied.

There is a lot of work that needs to be done to fix this process. From our perspective, the College has self-serving bureaucratic and financial interests when it comes to expanding the number of trades that are classified as compulsory, and therefore subject to membership fees. We note, with trepidation, that one of the College's strategic objectives is “to promote the College of Trades and build its membership”.

Based on our own research and consultation, we have learned that the creation of an independent advisory council, modeled after the current Health Professions Regulatory Advisory Council (HPRAC), would provide an improved alternative method to the review panel process. This model will remedy earlier concerns about the lack of sufficient empirical evidence and the ability of review panels to consider information from sources other than the submissions received.

An approach similar to the HPRAC model will also simplify the seven trade classification review criteria, which we find are not consistent with the public interest, as they do not consider economic impacts of trade classification decisions or the broader implications for business. Furthermore, the model would broaden a panel's scope of evidence for consideration.

The HPRAC has the statutory duty to advise the Minister of Health and Long-Term Care on regulatory matters, including whether unregulated health professions should be regulated. All decisions are informed by a broad-based stakeholder consultation process, in which interested parties can raise issues and concerns over potential regulation or non-regulation of a health profession.

This process includes not just the input from interested stakeholders, but also key informant interviews to identify stakeholder interests as well as gather information about the issues related to regulation. A thorough research process is also conducted, including literature reviews, jurisdictional reviews, and jurisprudence

reviews. There is also the potential for HPRAC to seek further submissions from external experts to help inform recommendations.

Under the HPRAC model, decisions to regulate a profession are based on a two-step “risk of harm threshold” and do not include an assessment of the merits of the profession seeking regulation. Once this threshold is met, there is due consideration to whether regulation is the most appropriate course of action or whether there exists another risk mitigation approach that would result in a better outcome (for example, another body or Ministry is already responsible for oversight).

Lower Barriers to Entry in the Skilled Trades

Because Ontario’s success in the global economy hinges on its ability to foster a workforce that is highly skilled and adaptable, greater emphasis should be placed on attracting youth to careers in the skilled trades—a critical component of the College’s mandate that is currently unfulfilled.

However, the promotion of the skilled trades is not the only action that must be taken to increase the number of certified journeypersons in the province. Our membership has been vocal that high journeyperson-to-apprentice ratios and in-class components of learning remain key barriers to apprenticeship completion.

Based on our research, in order to fulfill key objectives of its mandate and increase the number of workers in the sector, the College should:

- Utilize the HPRAC model identified earlier to undertake a second review of apprenticeship ratios. These ratio reviews should not take place until the College has moved forward with filling data gaps. The process should also examine the decisions previously made in 2013, given the lack of sufficient information and participation throughout that process.
- Work with the Ministry of Training, Colleges and Universities, as well as local colleges, to better align certification standards with training realities. This may mean changing in-class curriculum to better represent the strengths, and weaknesses, of apprentices.

CONCLUSION

To date, our membership of 60,000 businesses remains unconvinced that the Ontario College of Trades has brought value to skilled tradespersons and apprentices across the province.

Our members are concerned that the College is ignoring central elements of its mandate in order to focus on enforcement and compliance. Again, there is disappointment that this review does not focus on critical objectives of the College that our members believe are going unmet.

The College must ensure that all decisions regarding compulsory trade and apprenticeship ratios are transparent and subject to high-decision-making thresholds. Decisions to expand the number of compulsory trades must also be based on a robust process of research and data collection, and include substantial stakeholder buy-in.

The creation of an independent advisory council, modeled after the Health Professions Regulatory Advisory Council (HPRAC), provides an alternative to the current review panel process and is a step in the right direction.

The OCC and its network of chambers of commerce and boards of trade from across the province intends to remain very engaged on this issue. The Chamber Network looks forward to attending the regional consultations and providing input into your final recommendations.

To get in touch, please contact Andrea Holmes, Senior Policy Analyst, at 416.482.5222 ext. 2470 or by email at andrea.holmes@occ.ca.

Thank you,



Denise Jones
Ajax-Pickering Board of Trade



Bill Saunders
Belleville Chamber of Commerce



Burke Friedrichkeit
Brighton-Cramahe Chamber of Commerce



Gail Bishop
Chatham-Kent Chamber of Commerce



Kevin Hargreaves
Cornwall & Area Chamber of Commerce



Kathleen Dills
Halton Hills Chamber of Commerce



Sherry Boyce-Found
Kawartha Chamber of Commerce and Tourism



Anthony Agostino
Greater Kingston Chamber of Commerce



Ian McLean
Greater Kitchener Waterloo Chamber of Commerce



Debra Scott
Newmarket Chamber of Commerce



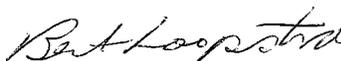
Kerry Colborne
Oakville Chamber of Commerce



Allan O'Dette
Ontario Chamber of Commerce



Bob Malcolmson
Greater Oshawa Chamber of Commerce



Bert Loopstra
Owen Sound & District Chamber of Commerce



Stuart Harrison
Greater Peterborough Chamber of Commerce

Dave Ashton
Prince Edward County Chamber of
Tourism and Commerce

Suzanne Andrews
Quinte West Chamber of Commerce

Rory Ring
Sarnia Lambton Chamber of Commerce

Garry Lobsinger
Stratford & District Chamber of Commerce

Debbi Nicholson
Greater Sudbury Chamber of Commerce

Charla Robinson
Thunder Bay Chamber of Commerce

Suzanne Renken
Tillsonburg District Chamber
of Commerce

Phil Barton
Timmins Chamber of Commerce

Jeff Hamilton
Trent Hills & District Chamber of
Commerce

Martha Dennis
Woodstock Chamber of Commerce

Matt Marchand
Windsor-Essex Regional Chamber of
Commerce

Anne MacDonald
Brockville Chamber of Commerce