

## What is the Public Interest in Professional Regulation? Canadian Regulatory Leaders' Views in a Context of Change

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### Abstract

Professions are regulated in the public interest, but precisely what the term “public interest” means can vary across time and place. Research exploring changes to professional regulation in the West has begun to identify such shifts: for instance, highlighting the emphasis on consumer satisfaction and public protection over other potential meanings of the public interest. To understand these societal shifts and their implications for professional regulation, this article first reviews neo-Weberian theories of rationalization, and empirical literature. Subsequently, it presents findings from interviews with regulatory leaders across six Canadian provinces to determine if the trends in rationalization identified are reflected in leaders' accounts of professional regulation in the public interest. Interviews reveal that many leaders define the public interest in ways consistent with technical rationality, including a safety lens and consumer orientation; however, there is also evidence of broader meanings and values. The implications of these findings are discussed.

### Keywords

Professions, public interest, professional regulation, Canada

## What is the Public Interest in Professional Regulation?

Professions are regulated in the public interest. Indeed, upholding the public interest may be the sole purpose of regulating professions. Nevertheless, despite the importance of the concept for professions and professional regulation, the term “public interest” is rarely defined, and in concrete circumstances may be difficult to determine (Adams, 2016; ICAEW, 2018; Saks, 1995). Traditionally it has been seen to refer to policy and action that benefits “the public overall” rather than the segments of the population professionals come in contact with in practice (ICAEW, 2018, p. 2). What is meant by public benefit, however, is socially constructed, and tied to prevailing societal values, social concerns, and even the private interests of influential stakeholders shaping public perceptions (Adams, 2016; Saks, 1995). As such, definitions of the public interest are not only fluid and changeable, but subject to social contests and debate.

Research suggests understandings of the public interest have shifted in recent decades in some countries. For example, in the United Kingdom and Australia, emphasis has been placed on public protection or patient safety and managing risk—especially within health care—rather than broader public interest goals (Kuhlmann et al., 2009; Pacey & Short, 2018; PSA, 2015). This is a small but significant shift in public interest narratives: the emphasis is more on limiting harm to consumers of professional services, rather than benefitting the public, more broadly. A public safety / risk-mitigation lens is touted as one that is clearer (and more measurable) for regulators and professionals, than the more-vague “public interest” (Cayton, 2018; PSA, 2015). This lens is also more consumer-oriented, and hence blends with concomitant trends emphasizing consumer satisfaction with professionals’ services, and enhancing consumers’ voice in the regulation and assessment of professional work (Boswell, 2018; Dent, 2018; Kuhlmann et al., 2009). It is expected that consumers will represent the public interest, providing a check against professionals’ self-interests (Advisory Committee on Self-regulation [ACSR], 2016; Boswell, 2018). The result is an apparent shift away from broader conceptualizations of the public interest towards a narrower focus on the satisfaction and protection of clients (Brown & Flores, 2018).

These shifts are consistent with broader trends within professions and society, specifically what several scholars describe as the expansion of instrumental and technical rationality, which emphasize the application of scientific knowledge and expertise as the best possible means to achieve calculable and pre-determined ends, defined narrowly in terms of efficiency (Marcuse, 1941; Ritzer, 1996; Schön, 1983). Technical rationality provides little space for attention to civic or social values, or for reflection on the broader implications of professional practice decisions (Schön, 1983; Sullivan, 2005). Institutional and private interests, and the drive for efficiency are, instead, predominant.

To explore how these trends shape conceptualizations of the public interest in professional regulation—and identify what goals and values appear to underlie regulatory decision-making—this article first draws on neo-Weberian and other scholars’ accounts of rationality and its impact on professional work in contemporary Western societies. Subsequently, it

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reviews the empirical literature on the public interest in professional regulation over time in the United Kingdom and Europe. Next, it explores the extent to which technical rationality has overtaken value rationality in defining the public interest in Canada, through an analysis of findings from interviews with regulatory leaders across six provinces about the public interest in professional regulation. Canada is embarking on a period of regulatory modernization, and this period of change provides an ideal moment to explore diverging and shifting conceptualizations of the public interest that underpin policy change. The paper concludes with some reflections on the theoretical and societal implications of the study findings.

### **Theorizing the public interest**

What is the public interest? There is no clear definition—nor perhaps can there be. The public interest is tied to values and principles—beliefs about what is the “right thing to do”—and these can vary across time and place (Saks, 1995). Certain principles are more-or-less universal in Western democracies, such as fairness, safety, access, and protection of the public. Beyond these generalities, however, the public interest becomes murky. The fact is that “the public” is internally divided, and different segments may have different interests or priorities; fulfilling the interests of some can disadvantage others (ICAEW, 2018; Saks, 1995). Not only is the term socially constructed, it is also socially contested as stakeholders engage in political contests each claiming their position is the one that will uphold the public interest best (Bonnin, 2019).

Professional work and professional regulation have long been said to serve the public interest (Adams, 2016; Saks, 1995). Sociological theories have emphasized the fiduciary roles played by professionals and professional regulators. Nineteenth- and early twentieth-century theorists like Emile Durkheim (1992) and Herbert Spencer (1896) noted professional bodies’ potential contributions to social order, and Foucauldian scholars have documented professions’ role in supporting state activity, and extending governmentality (Evetts & Dingwall, 2002). However, professions not only contribute to state governance, but they hold positions of public trust where they are expected to act to protect the well-being and interests of others (Sciulli, 2009), and support general values including truth, trust, science, objectivity, and justice (Parsons, 1939; Parsons & Platt, 1973). For Parsons (1939) and others writing in the mid-twentieth century, professionals are lynchpins contributing to societal functioning and social order through the application of their expertise (see also Kurtz, 2022; Parsons & Platt, 1973). In this sense, professions are not just groups of workers, but important social institutions that marry expertise with civic duty and ethical conduct—demonstrating what William Sullivan (2005) characterizes as *civic professionalism*. Professional workers adhere to an institutional logic distinct from that governing the market or organizations—one valuing expert knowledge, autonomy, and control over their own work, guided by ethical codes and contributing to public well-being (Freidson, 2001). However, professionalism and professional logics are being undermined as market and

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managerial (organizational) logics gain predominance (Freidson, 2001; Ritzer & Walczak, 1988). These trends may erode professionals' public interest commitments—and professions' social relevance (Kurtz, 2022)—as they prioritize self-interests, and personal / organizational gain.

Weberian theories pertaining to rationality, rationalization, and social action shed light on these trends and their implications for conceptualizing professions and the public interest. In his writings on rational social action—action oriented toward others that is conscious and goal-oriented—Weber (1968) distinguishes two forms. Instrumentally rational action is pursued to achieve a specific outcome. In contrast, value-rational action is linked to values; the action may not achieve a specific goal, but it is perceived as being the “right thing to do” in the given circumstances (Kalberg, 1980; Weber, 1968). Rational action is guided by different forms of rationality. In his own writing, Weber focuses on formal rationality, which is guided by rules, laws, or regulations. Other scholars have elaborated the conceptualization of other forms of rationality, including substantive rationality (Geva, 2015; Kalberg, 1980), which orders action in accordance with societal values (duty, honour, justice, fairness, etc.) (Geva, 2015; Kalberg, 1980; Weber, 1968). Over time, Weber and others have asserted, formal rationality is expanding at the expense of substantive rationality (Ritzer & Walczak, 1988; Weber, 1968): that is, behaviour is increasingly guided by formal rules and means-ends calculations, especially those aimed at enhancing the efficiency with which tasks are accomplished to minimize costs and enhance profit. These processes have been well-elaborated by Ritzer (1996) who documents the drive for efficiency, predictability, calculability and control in his accounts of McDonaldization, an intensified form of rationalization.

These concepts of rationality and social action have been applied to the study of professions and professional work (Parsons, 1939; Ritzer & Walczak, 1988; Saks & Adams, 2019; Schön, 1983). The concept of technical rationality is key to these discussions (Marcuse, 1941; Parsons, 1939; Sullivan, 2005). From a neo-Weberian point of view, technical rationality is akin to formal rationality, but here the means-ends calculations that determine goal-oriented action entail the application of expert knowledge, science and technology to address social problems and provide efficient solutions (Marcuse, 1941; Parsons, 1939; Sullivan, 2005). Western scholars date the expansion of technical rationality to the 1930s and 1940s, highlighting this as a period of time where expertise was mobilized by governments, corporations, and other social institutions in a variety of capacities. In the decades following the Second World War, professional employment expanded, as did the uses to which it was put, with the goal of using science and technology to determine social action in a manner that enhances efficiency, expediency and convenience (Marcuse, 1941; Parsons, 1939; Schön, 1983).

Marcuse was among the first to identify, and critically reflect on the implications of the rise of technical rationality, which he initially called “technological rationality.” While, for

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Parsons (1939), this rationality spotlights the importance of professions and expertise to societal institutions, Marcuse (1941, p. 142) reveals that technical rationality alters social action, requiring that it conforms to the needs of rationalizing institutions. Here, “individuals’ performance is motivated, guided and measured by standards external to” them, to such an extent that the only reasonable course of action is to select “the most adequate means for reaching a goal which [s]he did not set.” Like formal rationality, technical rationality is codified, rule-driven, and prioritizes efficiency. Action entails the application of scientific principles to improve techniques and performance, leaving less room for action driven by social values and collective interests (Marcuse, 1941, p. 153). Parsons (1939) is optimistic that the institutions in which professions work allow them to engage in value-rational action to the benefit of society; however, Marcuse (1941) disagrees, arguing that attention to efficiency, expediency, and convenience is prevalent. As a result, he believes, self-interests are prioritized above collective interests.

Scholars writing from a variety of perspectives document the impacts of rationalization on professional workers. For example, Sullivan (2005) highlights technical rationality as key to the decline in civic professionalism. Schön (1983, p.42) laments technical rationality’s impact on professional work, learning and knowledge, arguing that it directs attention to problems of “technical interest” that are “relatively unimportant to clients or to the larger society” instead of major social issues of concern to all. He advocates for reflective practice to facilitate professionals’ ability to move beyond the limits of technical rationality, and cope with unanticipated cases and matters of potential importance beyond specific institutional settings. Ritzer and Walczak (1988) show how structural social changes fostering rationalization in professional workplaces are pushing professional practice away from its roots in substantive rationality—shaped by values like altruism, autonomy, and authority—towards formal rationality, and the drive for efficiency in a formalized, rule-driven way. They argue that the use of new work practices, technology, and managerial controls combine to reduce professional autonomy, authority, and control, bringing about deprofessionalization (see also Ritzer, 1996, p. 137-8).

The idea that technical rationality, and the dominance of market and managerial logics, are undermining professionalism aligns with similar arguments from scholars working under a new institutionalist theoretical perspective (Noordegraaf, 2007; Reay & Hinings, 2009; see also Freidson, 2001). These scholars, however, demonstrate that it is not simply the case that professional values wither away in the face of market logics. Rather, professional workers learn to navigate these conflicting logics (Reay & Hinings, 2009), and some become hybrid professionals adopting elements of both logics in their professional practice, or go further and establish a new logic that blends the two (Noordegraaf, 2007, 2015). These insights are significant as they underscore that values continue to shape professionals’ activity (and identities), even when workers are confronted with other, dominant logics. Indeed, professional logics prioritizing values of service to others and ethical conduct are

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institutionalized, and embedded within professional education and regulation, to an extent they have been perpetuated, despite institutional pressures counter to them. The persistence of professional logics alongside market logics suggests that conceptualizations of the public interest may continue to align with civic professionalism (Sullivan, 2005), even as other priorities (such as efficiency) hold sway.

## **The public interest in professional regulation: Recent literature**

In an earlier review of public interest conceptualizations in Canada, Adams (2016) documents shifts over time. In the late nineteenth century, the public interest was most often discussed in terms of protecting the public by raising service quality through restricting entry to professional practice to the highly trained and ethical. Access to services was also a consideration. Here professionals' interests largely coincided with the public's interest in high-quality service provision. By the mid-to-late twentieth century, professions were regarded as too elitist, and there were concerns over access to services and high costs. Conceptualizations of the public interest shifted in the context of change: Although service quality and access continued to be highlighted as public interest considerations, so too were workforce flexibility and cost-effectiveness. By the late twentieth and early twenty-first centuries, Adams (2016) finds, there was increased emphasis on efficiency, cost, and accountability. Since the 1960s, professional interests and public interests have been regarded as diametrical rather than overlapping. These trends, generally speaking, are consistent with rationalization processes, suggesting a shift towards efficiency; however, traditional meanings of the public interest, including access and service quality, have not disappeared.

Currently in Canada, policy documents and regulatory legislation affirm the centrality of the public interest to professional regulation (Advisory Committee on Self-regulation [ACSR], 2016; Professional Governance Act, 2018; RHPA, 1991). Although documents refrain from offering a clear definition, it is nonetheless evident that the public interest includes the interests of clients/patients as well as the general public (ACSR, 2016, p. 4). The lack of a definition is likely intentional, to avoid narrowing the scope of the concept, and to enhance adaptability.

Research from Europe also explores changing meanings attached to the public interest. Traditionally, in the United Kingdom, meanings attached to the public interest were broad, and tied to principles like justice, freedom and welfare. The public interest and professionals' interests often coincided (Saks, 1995; Whiting et al., 2020). Research on regulatory reform in the UK suggests a shift in the early twenty-first century (Chamberlain et al., 2018). One over-arching driver of reform has been a concern for public protection. Amid scandals surrounding malpractice and professional incompetence in healthcare, UK policymakers prioritize protecting service users by ensuring that practitioners practise

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skillfully and safely, and that incompetence and malpractice are swiftly and effectively addressed (Chamberlain, 2012; Saks, 2015). In this context, policymakers and other stakeholders define the public interest as being different from, and even antithetical to, professional interests (Cayton, 2018; United Kingdom Department of Health, 2017).

Researchers link the emergence of a public safety focus to changes in governance, including the rise of neo-liberalism, consumerism, and new public management (Dent, 2018; Kuhlmann et al., 2009). Broader notions of the public interest appear more compatible with the welfare state, with its policy mandate to support the governed population. Under neo-liberalism, there is a greater emphasis on individualism and individuals' responsibility for their own successes and failures. The emphasis on public safety centres attention on individual practitioners and their interactions with individual patients/clients, as well as holding the former to account for the latter's satisfaction and well-being. An increased focus on individual practitioners and patients, and the efficiency and convenience of professional services, are consistent with technical rationality, as described above. One associated trend is the emergence of clinical governance and the scrutiny of professionals' competence and behaviour (Brown & Flores, 2018; Chamberlain, 2012). This coincides with technical rationality's focus on the application of science to solve pragmatic ends, and an emphasis on competence in work performance (Schön, 1983). It also reflects the application of science by one group of professionals to monitor the activity of others. The focus on performance can also be linked with the recent expansion of anti-expert sentiment within government and society more generally (Eyal, 2019). The backlash against expertise is a reaction against the privileged role of experts under technical rationality, and encourages closer scrutiny of performance and a questioning of expert knowledge and authority. Although, traditionally, public interest mandates focused on the potential for professionals to benefit society, the current public protection discourse emphasizes the harm professionals can cause (United Kingdom Department of Health, 2017).

Another linked trend is a rising emphasis on consumer satisfaction and the client experience (Brown & Flores, 2018; Kuhlmann et al., 2009). Consumers now play a larger role in regulating professionals through involvement on regulatory bodies and an enhanced voice in the healthcare system—although opportunities for meaningful inclusion remain limited (Boswell, 2018; Dent, 2018). Regulators urge professional service providers to put patients/clients first and ensure the latter are satisfied with the services they receive. This too is consistent with technical rationality's emphasis on individual interests. Traditionally, professionals served their clients not by responding to their demands, but by combining their expertise with broader professional values, to do what the professionals believed was best for their patients (even as they took clients' preferences into account) (Freidson, 2001, p. 127). The consumer rights movement has been a positive development, but the increased emphasis on consumer satisfaction in professional practice and regulation, combined with intensified scrutiny of professional conduct by consumers and managers, reduces

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professional autonomy (Waring & Currie, 2009). At the same time, it leads to a shift away from more general conceptualizations of the public interest, towards a focus on individual client safety and satisfaction. These changes impact professionals in a variety of sectors.

Despite these trends, there is also evidence that broader public interest considerations persist in many locales (ICAEW, 2018; Veloso et al., 2015). Indeed some authorities have created practical guides to help regulators and policymakers determine what the public interest is in concrete situations (ICAEW, 2018; PSA, 2021). Moreover, while trends such as neo-liberalism and consumer rights movements have occurred in Canada as well (Whiteside, 2009), until recently they have not been associated with a decline in professional self-regulation (Adams, 2017). Traditional values have persisted due to profession-state collaborative relationships, and a form of self-regulation that does not draw heavily on state resources.

Combined, the literature and theory suggest that conceptualizations of the public interest may be shifting towards self-interests and a focus on technical competence. The emphasis on self-interests appears to be manifesting through attention to consumer satisfaction, institutional demands for efficiency, and a concern that professional self-interests can be harmful. The focus on technical competence has spotlighted concerns over safety and practitioner performance / misconduct. To the extent that market/ managerial logics and technical rationality dominate, then, definitions of the public interest should emphasize consumer interests and public protection, as mentioned in the literature. Nevertheless, professional logics and substantive rationality persist, in the Canadian context and elsewhere, suggesting that traditional values like fairness, equity, and access to services should also remain relevant. To determine the impact of these social changes on conceptualizations of the public interest, this study analyses data from interviews with Canadian professional regulatory leaders on their understanding of the term.

Specific research questions are as follows:

1. How do regulators understand the public interest in terms of their mandate?
2. To what extent do these understandings reflect technical rationality and market/organizational logics, and to what extent do they appear to reflect social values and professional logics?

## Methodology

To uncover regulatory leaders' views of regulatory change generally, and the public interest in particular, I conducted 77 interviews with 83 participants, who held leadership positions in regulatory bodies (such as registrar or executive director) or who were involved in the field in other capacities (for example working in government or serving as consultants). To recruit participants, I visited regulator websites to identify individuals in leadership



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positions, and contacted them directly. Sometimes people I contacted forwarded my contact information to others in their organization or related ones. Those interested in participating contacted me to schedule an interview, which was conducted online or over the phone in 2021. Participants were located in six provinces: 20 interviews were done with regulatory leaders in British Columbia (BC), 22 in Alberta, 21 in Ontario, and the remaining 14 with leaders in Saskatchewan, Nova Scotia and Newfoundland. Forty-five of the interviews were with people regulating healthcare professions, and 32 with people involved in the regulation of other professions, or in a role where they dealt with both. In Canada, professions are regulated on a provincial basis, and it is common for each profession to have its own regulatory body (although this is changing with regulator amalgamations). As a result, there are numerous regulated professions in each province.

In terms of background, about half of the regulatory leaders interviewed were trained in the professions they regulated. One fifth were members (or former members) of regulated professions, but were working for a body that regulated a different profession. The remaining thirty percent of leaders were not members of a regulated profession. Those in this latter group, as well as many in the other two categories, had some training in administration, law, or another field relevant to their work.

Interviews ranged in length from 35 to 70 minutes, with most taking an hour to complete. Only two participants declined to have their interviews recorded. University ethics approval was obtained prior to the study. Because all participants were promised confidentiality, I have not tied participant/interview numbers to specific provinces or professions when reporting findings.

The thematic analysis of interview transcripts was largely inductive. For this present paper, I focused on the interview question asking participants to discuss what the term “public interest” meant to them, in terms of their work as a regulator. Other mentions of “the public interest” during the interview were also analysed. I began with open coding, assigning key words and phrases to portions of text. Subsequently, I grouped these key words into broader categories, and then counted how many times each word, phrase or category was mentioned in interviews. Responses were compared across provinces and profession type (health or other).

## Findings

When defining the public interest, participants provided a range of responses. A few gave a succinct definition, but most spoke at length about the challenges of defining the public interest, or identified a wide range of components contributing to it. Despite this variability, several elements were frequently mentioned, and these are summarized in Table 1.

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**Table 1.** Meanings attached to the public interest by participants, number of mentions.

<b>Key words</b>	<b>Total</b>
Public protection/ safety	40
Consumer service/ lens	28
Practitioner competence	23
Broad, holistic focus	23
“Safe, ethical, competent” practice	15
Professional vs private interests	15
Discipline	14
Difficult to define (or should not be defined)	12
Practice guidance, standards	11
Cultural safety, equity, diversity & inclusion	10
Risk focus (right-touch regulation)	9
Access	9
Economic and Environmental well-being	9
<b>Interviews by Region</b>	<b>77</b>

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As Table 1 shows, a slight majority (52% or 40/77) of participants defined the public interest in terms of public protection or safety. For some participants, there was little need to elaborate, as the terms public interest and public protection were viewed as synonymous:

Protection of public safety. Like, to me, that's just the bottom line (#39).

To me, public interest is all about practising in a way to keep the public safe (#20).

Nonetheless, many participants did elaborate, highlighting other elements of the public interest, especially—for one-third of participants—a consumer focus. For the latter, the public interest was all about meeting the needs of consumers, and being responsive to them. Participant #20, quoted above, highlighted this dimension as well:

[...] but I also think that we are amiss if we don't engage the public and ask them, what keeps them safe. And I know, we've engaged, we've had focus groups, and you would be surprised, you know, we focus on [...] doing a procedure just right. However, that's not what keeps them safe. You know, it's communication, caring, taking the time to look in somebody's eyes, you know. So, as regulators, I think we're putting blinders on.

For this regulator, then, public protection needed to be combined with a consumer orientation: A responsible and informed regulator should talk to people and find out what they needed, and then ensure registrants were providing services in a manner that enhanced patient/consumer satisfaction.

Regulators with a consumer orientation also emphasized putting clients first, prioritizing their interests and those of their families, as well as taking steps to inform the public about professions and professional regulation and the complaints process. Many participants also stressed the need to be transparent in their activity, and to communicate clearly with clients and the general public. A linked consideration, for several participants (10 or 13%), was a concern for cultural safety, equity, diversity, and inclusion. To really meet consumers' needs, regulators and practitioners had to combat racism and unconscious bias to ensure that everyone had access to good, culturally safe services. Regulators explained they were attempting to “be more culturally appropriate and humble in our work” (#52).

Another aspect of the public interest that appeared in just under a third of interviews (23 or 30%) was a focus on practitioner competence. Participants explained that to serve the public interest, regulators had to make sure that registrants had the skills required to meet the demands of their jobs, and that they “remained competent through a continuing competence program” (#44).

Participant #64 elaborated on regulators' public interest responsibilities here:

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[...] making sure that people who are in the profession have the qualifications and competencies to be allowed to call themselves a professional, so that's academic and experiential, and all those things. But it's also other skills like communications and things—like it's not just a science for us; it's other things. It's setting up and maintaining and auditing and reviewing programs that ensures that they maintain the skills required to be able to do their jobs, and that they are only doing those things that they have the qualifications for. [...] So that there is ongoing professional development, and those things are audited. And they're audited to make sure they stay in their lane.

Quite a number of participants linked competence, ethical practice, and safety. Indeed so many used the expression “safe, ethical, and competent” care or service to describe the public interest that it earned its own category, and was the 5th most-mentioned meaning attached to the term, public interest.

Just under a third of respondents (23, 30%) explicitly rejected simplistic definitions of the public interest as public protection or consumer satisfaction. Instead, they argued that the public interest had to be considered broadly or in a holistic fashion, as encompassing many different dimensions.

I think regulators need to look at the public interest quite broadly in terms of societal objectives, immigration, labour market imperatives, and, of course, public health and safety, and the need to create a registration system that's fair and timely. And to move folks through the system, make sure there's proper competence and resourcing so that people are not delayed unduly and, you know, it may well be that the government needs, at some point, to redefine what is meant by the public interest. If, you know, it comes to the conclusion that the regulators are not dealing with it in a holistic perspective (#33).

Participant #40 also insisted that regulators had to look at the big picture and weigh many different dimensions of the public interest, not simply focus on consumer concerns:

So it's not about what's in the best interest of that patient in front of you. It's what is that public interest? So it's going to get into all the things from social determinants of health, public good return on investment, a population-based funding model. And, you know, we can't be everything to everybody every time. And that's where you start to look at a value system to make those decisions around that.

These participants and many others insisted that any definition of the public interest had to be broad, encompassing a number of factors and values—from cost and efficiency to societal factors. Two explicitly rejected the term “public protection” due to its insinuation that “there's all these professionals out there waiting to harm you, right? Not true” (#25).

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These sentiments, and the importance of a broad approach to regulating in the public interest, are elaborated by participant #9:

I think that when I started this job, I was a little bit offended by the way that we focus in on the job of the [regulator] to protect the public from [professionals]. Right, here's a bit of a pejorative construct. [...] We make recommendations for [...] therapy to improve the health of patients and citizens. So it's not that we're protecting—I don't want just to protect the public from [professionals]. I want [professionals] to be able to improve the health of people, because they can. And I would expect that if you know something that can make somebody better, you should tell them.

These regulators reject the anti-expertise sentiments and the narrow focus on practitioner malpractice, which underlie public protection framing, arguing in favour of a more holistic understanding of the public interest.

These four elements—protection, consumer lens, competence, and breadth—were the most mentioned, but many other components of the public interest were identified in interviews. For example, it was not uncommon for participants to discuss the public interest in contrast to professionals' interests; 15 (19%) did so. However, responses differed, with several participants defining the public interest as being the opposite of professionals' interests, while others asserted the two could overlap, and therefore were not as diametrical as is sometimes assumed.

Less often mentioned were disciplining practitioners who engaged in malpractice (14 participants), establishing practice guidance and standards to inform effective professional practice (11), and adopting a risk-based approach to regulation or right-touch regulation (9)—“identifying risks to the public, and mitigating those risks, if possible” (#17). A minority of participants—especially those regulating professions outside the health sphere—emphasized that the public interest included consideration of the health of the economy and the environment (9 participants).

Approximately a sixth of respondents (12) said the public interest was either difficult or impossible to define. Indeed some explained that the term *should not be* defined.

[...] so how are we going to define [...] the public interest? I think that's a folly. You can't and you shouldn't. You need to broadly be able to use that as a tool. [...] We have pieces in the act [i.e. regulatory legislation] to ensure that things are safe. And then we're developing structures and processes that ensure safety of the public, and also ensure the safety of our environment. And those are touchstones [...] But the public interest is a very broad concept. And, you know, you can set out factors and things that you can consider. But it's something that is a wholesome exercise that needs to be approached that way. And so while I understand the desire to sort of put a formula together, I don't think that's the appropriate approach. (#73)

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For this respondent and others, regulating in the public interest necessitated a practice wherein regulators considered the public interest implications of everything they did. The public interest could not be distilled down to a single phrase or focus, or a formula for regulators and practitioners to follow. Others concurred that the public interest was a “lens you use [...] on everything you do” (#38)—something to be considered in every aspect of a regulators’ work. Regulators should not concern themselves with “the public interest” generally, but focus on public interest considerations “connected to a particular context” and regulatory task (#51).

Another element that was emphasized by several participants (9) was access:

We serve the public interest by ensuring that there is a sufficient quantity of minimally qualified individuals able to meet the public's needs. [...] We're not here to set barriers or to keep people out if the public needs service. We need to make sure that the most competent qualified people available are doing the best they can under the circumstances. [...] Going without a health service can in some cases be just as bad as receiving a bad health service. So we try to balance that when it comes to serving the public interest. (#12)

Other aspects of the public interest that were mentioned by participants, but less often, included building trust, efficiency and effectiveness, and adopting a metrics or outcomes-focused approach to regulation. One respondent somewhat cynically said the public interest was “what the government wants it to be” (#68).

There were some differences across provinces in which elements were most-mentioned (results not shown). For instance, Ontario regulators were more likely to mention a risk-based approach to regulation, while Albertan regulators placed particular emphasis on competence. Regulators in British Columbia and Alberta were more likely to discuss the challenges inherent in defining the public interest. BC and Ontario regulators emphasized broad definitions more than their counterparts elsewhere.

Variations in definitions were also evident between health and non-health regulators. For instance, the latter were more likely to mention economic and environmental interests, and the difficulty of defining public interest. Nonetheless, both sets of regulators similarly emphasized protection, consumers, competence, and breadth.

## Discussion and conclusion

Professions in Canada, as in many other countries, are formally regulated to serve the public interest. However, what exactly is meant by the public interest is socially constructed and contested. Traditionally, the public interest was attached to societal values including the ethical provision of services, access, and the application of expertise in a manner that benefitted not just the direct service recipient, but others in society as well (Adams, 2016;

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Saks, 1995; Sullivan, 2005). Professionalism was tied to social values as well as practitioner autonomy and control (Freidson, 2001). The spread of formal and especially technical rationality over the course of the mid-to-late twentieth centuries and beyond may have undermined such commitments, some theorists contend, narrowing the focus of professional activity to the application of expertise to solve technical problems, prioritizing efficiency and expediency. As a result, attention to collective interests and issues of broader significance is diminished. There is increased emphasis on self-interests, rather than public interests. Recent research on professional regulation suggests these changes manifest in enhanced attention to consumer interests (rather than the public more broadly defined), and greater attention to competence in the technical application of expertise, in the form of clinical governance and a consumer protection lens. The result is diminished professionalism, and a subordination of the professional logic to market / managerial logics (Freidson, 2001). These changes may also reduce professions' relevance to modern societies (Kurtz, 2022).

To determine whether and how these trends impact professional regulation—and especially regulatory leaders' conceptualization of the public interest in regulation, this study analysed data from interviews with Canadian regulators. Findings revealed that participants defined the public interest in a variety of ways, but the elements most emphasized include public protection, a consumer lens, and practitioner competence. These findings not only support the European literature on changing conceptualizations of the public interest, but they also appear consistent with technical rationality and a focus on individualism and expert performance. Nevertheless, there is also considerable evidence of breadth and depth in participants' public-interest conceptualizations. Indeed, several participants reject narrowed thinking about the public interest, advocating for a broad and holistic lens, and a few criticize the "public protection" focus. It is clear that Canadian regulatory leaders take numerous considerations into account when defining the public interest, from competence and ethics, through discipline and access, to equity, the economy, and the environment. Thus, despite evidence of technical rationality and market / managerial logics, there is evidence that professional logics, and associated values, persist. There is also evidence of ties to prevailing social concerns and values (as Saks, 1995 has argued), since current public concerns for equity, the environment, and access to services are reflected in participant responses. A broad understanding of the public interest, despite the expansion of rationalization and emergence of neo-liberalism, is still possible. This is consistent with new institutionalist approaches that have highlighted the existence of multiple logics governing professionals and their work.

There has been a push in professional regulation to move away from serving the "public interest" as an over-arching goal and towards goals like consumer satisfaction and practitioner performance that are more measurable (Cayton, 2018). As we have seen, this trend reflects rationalization processes that have been at work for some time. However,

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there are real risks associated with this approach, as many theorists and commentators have highlighted, not only for practitioners, but for the public (Marcuse, 1941; Ritzer, 1996; Schön, 1983). Analytically, it is important to recognize the presence of technical and formal rationality shaping our social institutions, and their impact on professionalism and professional work, narrowing the scope of such work, and potentially minimizing professions' contributions to society. Socially it is important to continue to move beyond self-interests to consider collective, public interests. Consumer concerns should not be ignored, but it is imperative that regulators look beyond the service recipient, since professional practice has broader implications for society: the contexts in which services are provided is important, as are prevailing social inequalities, barriers to access, and implications for the environment. Without a broad conceptualization of the public interest, these important elements could be forgotten. Supports for professional practitioners (registrants), such as providing practice guidance, and fair disciplinary procedures are also important, and can mitigate future risks to others. It is worthwhile to heed the advice of those regulatory leaders who suggest that while the public interest may be impossible to define, it is important to adopt a holistic public interest lens, and apply that broad lens to everything they do. Too narrow a definition of the public interest could create unintended risks for the people regulation aims to protect.

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