

IN THE PUBLIC INTEREST:

PROTECTING STUDENTS THROUGH EFFECTIVE OVERSIGHT
OF PRIVATE CAREER TRAINING INSTITUTIONS



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FROM THE OMBUDSPERSON

As with other systemic reports undertaken by the Office of the Ombudsperson, this one came about as the result of individual complaints to our Office. In this case, the complaints were from students at private career training institutions who were experiencing difficulty in their dealings with a government oversight body and Crown corporation, the Private Career Training Institutions Agency (PCTIA). Those complaints included issues of lack of accessibility, arbitrary timelines, and limited powers to address student complaints. In 2013, we became sufficiently concerned that these issues indicated systemic problems that we spoke to the Ministry of Advanced Education. The ministry at that time pointed us to its Green Paper that indicated it was embarking on a new quality assurance process for post-secondary institutions that it believed would address many of the issues we had raised. Less than a year later, however, the policy approach had changed and we were not satisfied our concerns would be addressed. Consequently, in February 2014 we began this systemic investigation. Shortly afterwards, the Ministry of Advanced Education appointed a public administrator to replace the PCTIA board. In February 2015, the Minister of Advanced Education introduced *Bill 7 – 2015 Private Training Act* which proposes a new model for oversight and regulation of private career training in British Columbia.

We approached this investigation from the perspective that, as a matter of administrative fairness, equal protection for all post-secondary students was the appropriate goal. While the mechanisms used and processes available might be different, students studying at private career training institutions deserve no less protection by government than students at public institutions.

In British Columbia, post-secondary education is provided by a variety of public and private institutions. More than 48,000 students attend private career training institutions in the province. The majority of the students are women. Many come from households with limited incomes. Almost 20 per cent of students at private career training institutions are identified as international students.

The courses offered by the more than 300 private career training institutions in British Columbia range from hypnotherapy to commercial diving. The size of the institutions is also diverse with about one third having an enrolment of less than 20 students, one third having an enrolment of 20 to 99 students, and one third having an enrolment of more than 100 students. Some of the private career training institutions can and do provide occupational training courses that are also offered in public colleges in British Columbia such as health care assistant, licensed practical nurse, heavy equipment operator and pipefitter. About 24 per cent of the programs offered by private career training institutions have tuition in excess of \$11,000 and some programs, such as licensed practical nurse training, can cost an average of \$29,000.

Demonstrating effective oversight of this area of post-secondary education is in the public interest and important for both social and financial reasons. It is important for the many students who pay significant tuition costs and spend months or years of their lives on a course of study. It is important for the private career training institutions that wish to be able to demonstrate that their students are well-trained and can compete effectively in the job market. It is important for employers who need to be sure they are hiring qualified people. It is important for the public who are relying on properly trained graduates for everything from health care to major construction projects. It is important for taxpayers whose money is loaned to students with the understanding that they are following an approved program of study. Finally, demonstrating effective oversight is important to ensure that

FROM THE OMBUDSPERSON



We approached this investigation from the perspective that, as a matter of administrative fairness, equal protection for all post-secondary students was the appropriate goal. While the mechanisms used and processes available might be different, students studying at private career training institutions deserve no less protection by government than students at public institutions.

There is an opportunity now to learn from the past and establish an oversight body and regulatory scheme that treats students and private career training institutions as significant partners in post-secondary education in this province. Second-class protection does not result in first-class education.

British Columbia continues to attract international students in an increasingly competitive education marketplace.

This report identifies gaps in the provision of accurate and useful information, in establishing clear and enforceable educational standards, in delivering on an active and problem-solving monitoring program, and in providing an accessible, properly structured and impartial complaints process for students who cannot resolve their concerns with the private career training institution they attend. The 36 recommendations made in the report are designed to address these gaps with practical and straightforward actions. One example of such actions is the Ministry of Advanced Education ensuring that students' rights are set out in a clear and simple document that is provided to every student and displayed in every private career training institution. Another example is the Ministry of Advanced Education ensuring that the oversight body's complaints process is structured to allow students to complain that a private career training institution is not following its own stated policies and procedures, or is not complying with legislation, regulations or other requirements.

The private career training sector in British Columbia has been subject to oversight and regulation by provincial government agencies for nearly 80 years to protect the interests of both students and the public. The effectiveness of the student protection provided has varied depending on three factors – the powers of the oversight body, the clarity of the standards imposed, and the adequacy of the resources available to the oversight body to do its work. There is an opportunity now to learn from the past and establish an oversight body and regulatory scheme that treats students and private career training institutions as significant partners in post-secondary education in this province. Second-class protection does not result in first-class education.

The letter from the Minister of Advanced Education in response to this report is found as an appendix to the report. Unfortunately, it does not deal directly with any of the 36 recommendations in the report, although the minister does state that many of the recommendations will be addressed in regulations anticipated to be in place by the fall of 2015. A review of *Bill 7 – 2015 Private Training Act* demonstrates that one recommendation has been accepted and implemented in part in that legislation, but that five other recommendations for legislative change are not included.

The majority of recommendations in this report can be implemented through regulation or policy. Bill 7 establishes a framework that would make their implementation possible. However, as the Ministry of Advanced Education has not made any regulations or policies public yet, I am unable to conclude at this time whether or not adequate and appropriate action has been taken to implement those recommendations. The Office of the Ombudsperson will regularly monitor and report out on the actions taken to implement all the recommendations in this report.



Kim Carter
Ombudsperson
Province of British Columbia



Prospective students have a range of options when seeking post-secondary education in British Columbia. In addition to British Columbia's 11 public universities and 14 colleges and institutes, students may enrol in a private university or one of the province's more than 300 private career training institutions. Some of the private career training institutions identify themselves as colleges.

Private career training institutions, in general, charge students higher tuition fees than publicly funded institutions. In return, private career training institutions may offer a variety of delivery styles, schedules and programs that students cannot always access in public post-secondary education. The flexibility, accessibility and diversity is not, however, without inherent administrative and regulatory challenges.

Since 2004, private career training institutions in British Columbia have been subject to the oversight and direction of the Private Career Training Institutions Agency (PCTIA), a Crown corporation with – until April 2014 – its own board and governance structure. Under the *Private Career Training Institutions Act*, PCTIA's role is to develop and enforce basic education standards for all institutions, protect students, and carry out its powers, duties and functions in the public interest.

In April 2014, the Ministry of Advanced Education announced plans to bring PCTIA's functions within the ministry. On February 11, 2015, the ministry introduced new legislation, *Bill 7 – 2015 Private Training Act* to accomplish this goal. The recommendations made in our investigative report are directed to the ministry in anticipation of a revised model for regulating private career training institutions.¹

The Principle of Equal Protection

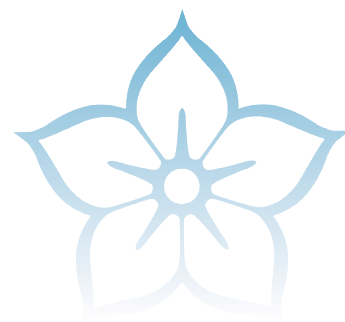
Our investigation focused on public oversight and regulation of private career training institutions in British Columbia. Ombudsperson investigations are concerned with fairness in the administration of government programs. A basic premise of our investigation was that students attending private career training institutions and those attending public institutions should have equal protection. The oversight of any post-secondary institution – public or private – must:

- ensure institutions make accurate representations about the value and content of their programs and deliver on those promises
- ensure institutions meet quality standards
- provide students with appropriate recourse if the above are not achieved

Investigative Process

Our Office received and investigated individual complaints about PCTIA. Through these investigations, we identified problems that appeared to be systemic in nature. In March 2013, we learned that the Ministry of Advanced Education was planning to overhaul its quality assurance processes for all post-secondary institutions including private career training institutions, as described in a Green Paper released by the ministry that month. In June 2013, we met with the ministry to discuss our administrative fairness concerns about PCTIA's oversight of private career training

¹ Throughout this summary and the report itself, all references to the "oversight body" means any body responsible for the oversight of private career training institutions, including a body operating within or as part of the Ministry of Advanced Education.



institutions. We were hopeful that the administrative fairness issues we had raised in individual complaints could be addressed by a new quality assurance model.

By February 2014, however, it became clear that there had been a policy change and that the ministry would not be implementing the Green Paper proposals. Consequently, I notified the ministry and PCTIA that I was commencing a systemic investigation. Less than two months later, in April 2014, the ministry dissolved PCTIA's board and appointed a public administrator to carry out the board's functions. At the same time, the ministry began work on developing a new framework regulating private career training institutions. In July 2014, we shared some preliminary observations with the ministry to assist it in developing a new oversight and regulatory model.

Our investigation included a review of provincial legislation and regulations, as well as meetings with ministry and PCTIA staff. We obtained and reviewed extensive information provided by both the ministry and PCTIA. We also met with and obtained input from the public, from private career training institutions, and from other interested stakeholders.

Findings and Recommendations

This report contains 31 findings and 36 recommendations directed at the Ministry of Advanced Education which fall into five broad categories: Governance, Information for Students, Monitoring, Enforcement and Complaints. The recommendations summarized below propose changes to legislation, regulation or policies and procedures which are needed to ensure equal protection.

The report and its findings and recommendations were drafted and provided to the ministry prior to the Minister of Advanced Education introducing *Bill 7 – 2015 Private Training Act* in the legislature. Some terms used in this report are not reflected in the proposed legislation. Bill 7 replaces the two categories of “registered” and “accredited” institutions with “certified” and “designated” institutions. Unlike the existing Act, Bill 7 does not contain any reference to basic education standards or accreditation standards. In addition, the proposed Act renames the Student Training Completion Fund the “Student Tuition Protection Fund.” Although Bill 7 contains some change in terminology, these changes do not affect the substance of our report or recommendations. We have therefore retained the original terminology throughout the report for clarity.

Those who are interested in the information leading to these conclusions and recommendations are invited to read the relevant sections of the full report. The report provides a more complete understanding of the context in which the recommendations set out in this Executive Summary have been made.

Impartial Governance and Oversight Structures

The composition of the PCTIA board prior to April 2014 did not adequately reflect the interests of all stakeholders, including students. Instead, a majority of members were representatives of private career training institutions, which created an inherent conflict of interest. Ensuring that the interests of institutions are appropriately balanced with those of students and the public would not only enhance public confidence in the oversight body but also allow for more accountable and transparent decision-making – a hallmark of administrative fairness.

Having an advisory body with wide representation is important because in its absence, only well-organized stakeholders will have regular access to the minister and the ministry. In this case, it is the operators of the institutions who fall into that category, while students, instructors, staff and the public do not.

I recommend that the Ministry of Advanced Education require in legislation that any governing or advisory body has balanced representation from institutions, students, other stakeholders and the public **(R1)**.

Information for Students

Knowledge of the Private Career Training Institutions Oversight Body

A decision to seek post-secondary education brings with it a significant commitment of both time and money. Students need access to information about the protections they can be confident of receiving, as set out in the oversight body's legislation and regulation, including student complaints processes, tuition refunds and quality assurance standards. This can be best communicated in an accessible manner through a student "bill of rights," which sets out the protections provided to students at career training institutions.

I recommend that the Ministry of Advanced Education develop a student bill of rights that reflects, in plain language, the protections provided to students at private career training institutions, and that the ministry translate it into other languages.

I also recommend that the ministry make this bill of rights accessible to students by requiring the oversight body to publish it and the translated versions on its website.

I further recommend requiring private career training institutions to provide the bill of rights to students as an attachment to the enrolment contract in English and any other applicable translations and to keep a copy of it in a visible location on each campus **(R2)**.

Information about an Institution or Program

It is important for prospective and current students to have access to information about the institutions they are attending. Such information includes the institutions' internal policies as well as accurate, comprehensive and up-to-date information about programs offered by private career training institutions, such as the length and the cost of a program, any practicum or work experience opportunities, and the expected outcome. PCTIA has not established adequate requirements to protect students from inaccurate or misleading information about institutions and programs. To address this, I have made three recommendations.

I recommend that the Ministry of Advanced Education establish in regulation that private career training institutions are responsible for all representations made to current or prospective students by or on behalf of the institutions, including representations made outside Canada or in languages other than English **(R3)**.

I recommend that the ministry require all private career training institutions to publish their current internal policies and tuition fee information on their websites **(R4)**.

I further recommend that the ministry develop and translate a document for each program offered by private career training institutions that provides relevant information about that program and any credential that will be obtained by

students who enrol; and that the ministry ensure that this document is accessible to students by requiring the private career training institutions to provide it and any other applicable translated version to students enrolling in a program and to attach the document to the enrolment contract (R5).

Effective Monitoring

A private career training institutions oversight body must develop and use processes for monitoring the quality of education provided by private career training institutions. As a result of our investigation of PCTIA's monitoring practices, I have made recommendations to the Ministry of Advanced Education in five areas: registration and accreditation, unregistered institutions, site visits, program approval and institution reporting requirements.

In all of these areas, it became clear during our investigation that the limited number of PCTIA staff responsible for monitoring did not allow PCTIA to adequately monitor and ensure that private career training institutions complied with all requirements and standards in legislation and regulation.

I recommend that the Ministry of Advanced Education ensure that the private career training institutions oversight body demonstrates it has adequate staff to fulfil its oversight responsibilities (R15).

Assessment of Institutions by Recognized Organizations

Recent changes to PCTIA's bylaws have raised serious questions about whether the private career training institutions oversight body will continue to conduct its own assessments to monitor and evaluate institutions' compliance with education standards, rather than rely on evaluations completed by outside bodies for other purposes. Such monitoring is an essential part of the oversight body's role.

I recommend that the Ministry of Advanced Education ensure that the private career training institutions oversight body remains responsible for assessing whether institutions meet basic education standards and, where applicable, accreditation standards, even where an institution has been assessed by an outside body (R11).

Unregistered Institutions

Student protection concerns arise when institutions operate without being registered because they are not subject to any oversight. The existing regulatory framework does not establish monitoring processes or timelines within which the private career training institutions oversight body must take action against unregistered institutions.

I recommend that the ministry require in regulation and policy that the private career training institutions oversight body have processes, with clear timelines, for identifying, monitoring and tracking unregistered institutions, for requiring these institutions to register and taking action if they do not, and for notifying the public and directly notifying students that the institutions are unregistered (R6, R7 and R8).

Site Visits

Site visits to institutions are an essential part of any quality assurance process. I found that the existing requirements for the oversight body to conduct site visits were insufficient.

I recommend that the Ministry of Advanced Education require in regulation that the oversight body visit all institutions before registration using an appropriate evaluation tool, within six months of registration and on an annual basis (**R9, R10 and R17**).

During site visits it is important for the oversight body to gather input and information from students about their experience at the institution and any concerns they have.

To ensure this occurs, **I recommend that** the ministry establish in legislation that the oversight body has the right to contact students at any time, including as part of a site visit (**R19(a)**).

I also recommend that a meeting with students be a required part of all site visits (**R19(b)**).

I further recommend that the ministry require the oversight body to develop and implement a process to directly notify students of site visits and encourage them to participate (**R20**).

It is also important for information about site visits to be publicly available to students and others.

I recommend that the Ministry of Advanced Education require the private career training institutions oversight body to publish on its website:

- (a) the dates and a summary of the results of each of its site visits to each institution for the past five years
- (b) the date of its next scheduled visit to each institution
- (c) the date of its next scheduled accreditation review for each accredited institution (**R18**)

Program Approval

PCTIA is responsible for reviewing and approving programs proposed by private career training institutions. However, the *Private Career Training Institutions Act*, Regulation and PCTIA's bylaws do not establish an adequate program approval process. In particular, there is no requirement for programs to be reviewed by an external subject matter expert, and there are no established approval criteria that apply to specific programs. Once PCTIA has approved a program, it does not adequately monitor changes the institution may make to the program that directly affect students.

I recommend that the Ministry of Advanced Education establish in regulation the circumstances in which a proposed program must be reviewed by an external subject matter expert before the private career training institutions oversight body can give its approval. **I also recommend that** the private career training institutions oversight body develop and implement policy directives that set out program approval criteria for program or vocation areas, including any requirements established by other governing bodies (**R12**).

I also recommend that the Ministry of Advanced Education review, expand and establish in regulation the program changes requiring prior approval from the private career training institutions oversight body, and establish clear, non-discretionary standards for institutions to report and obtain approval for all program changes that directly affect students (**R13**).

Some private career training institutions offer programs leading to certification in certain occupations that are also regulated by other governing bodies. Although PCTIA's bylaws require that institutions provide evidence that they have obtained approval from the relevant governing body, the process used to confirm whether the approval has been obtained and maintained on an ongoing basis is inadequate.

As a result, **I recommend that** the Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:

- (a) develop and maintain an accurate and up-to-date list of all programs regulated by a governing body, and the institutions offering those programs, and make that list publicly available
- (b) before approving a program, communicate directly with any relevant governing body for the purpose of confirming the governing body's approval of the program
- (c) review all programs requiring approval by all governing bodies annually to ensure institutions maintain governing body approvals and provide students with accurate and up-to-date information on governing bodies' requirements
- (d) suspend program approval and immediately and directly notify all students of this decision if an institution has not maintained program approval from a governing body (**R14**)

Reporting Requirements for All Institutions

Although all registered institutions are authorized to operate by PCTIA, the agency monitors accredited and non-accredited institutions differently. PCTIA only obtains information about post-graduation student employment outcomes – an important indicator of all institutions' quality of education – from accredited institutions. Accredited and non-accredited institutions may offer similar programs, and it is important to monitor them in a similar way.

I recommend that the Ministry of Advanced Education require the private career training institutions oversight body to track and report publicly on student employment outcomes post-graduation, student and graduate satisfaction surveys, third-party professional or licensing examination results and industry or employer feedback from all private career training institutions (**R16**).

Appropriate Enforcement Tools

A program of regular monitoring is, of course, only effective if the appropriate enforcement tools are used. Currently, there are few options available to PCTIA to deal with compliance concerns short of suspending or cancelling an institution's registration or accreditation. Such action could potentially have a detrimental impact on both students and the institution. It would better serve students if the private career training institutions oversight body had access to and, most importantly, used a wider range of administrative penalties for non-compliant institutions. Enforcement decisions should be publicly available and their impact on students should be clearly stated. The oversight body should directly notify students who are attending an institution that is subject to serious enforcement action such as suspension or cancellation.

I recommend that the Ministry of Advanced Education expand in legislation and regulation the enforcement options available to the private career training institutions oversight body by creating a system of administrative penalties that can be progressively applied to persons and institutions, including unregistered

institutions, which do not comply with applicable legislative, regulatory and policy requirements (R21).

I also recommend that the Ministry of Advanced Education require the private career training institutions oversight body to:

- (a) publish all enforcement decisions on its website, including the reasons for the decision
- (b) clearly describe any impact each enforcement decision may have on students and publish this on its website
- (c) maintain enforcement decisions, reasons and descriptions of the decisions' impact on students on its website indefinitely (R22)

I further recommend that the Ministry of Advanced Education require the private career training institutions oversight body to immediately and directly notify all current students of any decision to suspend or cancel an institution's registration or accreditation and provide the students with:

- (a) in the case of a decision to cancel registration, a written explanation of how students can seek a tuition refund and pursue any teach-out option²
- (b) in the case of a decision to suspend registration or to suspend or cancel accreditation, a written explanation of how this decision will affect students (R23)

Accessible and Impartial Complaints Process

Students at private career training institutions need access to fair and timely internal and external complaints processes. I have made 12 recommendations to the Ministry of Advanced Education aimed at improving both the complaints process at institutions and the complaints process offered by the oversight body.

I recommend that the Ministry of Advanced Education establish in regulation that all institutions must develop and implement a complaints resolution policy that meets specific minimum requirements, such as reasonable timeframes for responding to complaints and providing students an opportunity to be heard before making a decision (R24).

I also recommend that the Ministry of Advanced Education require all institutions to notify and obtain approval from the oversight body before making changes to student complaint resolution policies (R25).

I further recommend that all institutions be required to report annually to the oversight body on the number of student complaints received, the nature of the complaints and their outcome (R26).

PCTIA's Student Complaints Process

The private career training institutions oversight body should be able to respond to a variety of student complaints and concerns. I found that, currently, PCTIA's complaints process is limited to requests for tuition refunds. There are many situations, however, where access to an impartial, external complaints process would improve student protection. Students may not always want a tuition refund – for example, they may just want access to the classes or equipment that would allow them to complete their training.

² Student Training Completion Fund refunds may be paid directly to students or to a new institution, if the students are able to complete their training elsewhere (this is known as a "teach-out").

I recommend that the Ministry of Advanced Education establish in legislation that students can make a complaint to the private career training institutions oversight body if they have been unable to resolve complaints with a private career training institution about:

- the quality of education or the way in which education is delivered
- an institution's compliance with the oversight body's legislation, regulations and other requirements
- an institution's application of its own internal policies and procedures (**R27**)

I recommend that the Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process for receiving, investigating and responding to student complaints about the above three areas (**R28**).

I recommend that the Ministry of Advanced Education establish in legislation that the private career training institutions oversight body may direct private career training institutions to take appropriate measures to resolve student complaints made to the oversight body (**R29**).

I also recommend that students of an unregistered institution which later registers be able to apply for and receive a tuition refund on the same basis as other students (**R30**).

I further recommend that the Ministry of Advanced Education require the private career training institutions oversight body to improve the accessibility of its complaints process by:

- (a) developing a concise, plain language complaint form
- (b) taking reasonable steps to assist students who may face challenges in making a complaint
- (c) providing accurate information about the complaints process
- (d) informing students that they should not face retaliation as a result of a complaint (**R31**)

In addition to broadening the scope of complaints that can be heard, the Ministry of Advanced Education should take additional steps to ensure that the external complaints process is consistent with the principles of administrative fairness and natural justice. To this end, **I recommend that** the ministry:

- establish in regulation that all student complaints are heard and decided by an independent and impartial decision-maker (**R32**)
- establish in regulation the circumstances in which students and institutions have a right to an oral hearing of a complaint, that an oral hearing can always be requested, and that if such a request is denied, the oversight body provide written reasons (**R33**)
- establish in regulation reasonable time limits for making complaints and submitting supporting documents and discretion to accept complaints and supporting documents outside applicable time limits (**R34**)
- establish in regulation that the oversight body develop policy establishing what constitutes adequate and appropriate reasons for decisions, and provide written reasons for decisions on student complaints (**R36**)

I also recommend that the Ministry of Advanced Education review the tuition refund requests dismissed by PCTIA since the 2009/10 fiscal year because they were filed outside the existing six-month time limit, as that time limit was applied in an arbitrary manner. **I further recommend that** the Ministry of Advanced Education determine which of these students would be entitled to a tuition refund except for the six-month time limit and issue a refund to these students (**R35**).

The Office of the Ombudsperson's draft report and recommendations were provided to both the public administrator of PCTIA and the Ministry of Advanced Education in December 2014. Both had the opportunity to review the report, to provide any factual clarifications and in the case of PCTIA, to provide additional information. The Minister of Advanced Education's response to the draft report, dated February 17, 2015, is included as an appendix. As the public administrator of PCTIA is the Deputy Minister of Advanced Education, and as all the recommendations in the report are directed to actions the ministry needs to take, I have accepted the minister's letter as a complete response to the report and recommendations. The minister's letter does not provide specific responses to the 36 recommendations in this report.

However, on February 11, 2015, the minister introduced in the legislature *Bill 7 – 2015 Private Training Act*. Six of the recommendations relate to matters that, in my view, should be addressed in legislation. Having reviewed Bill 7, I can conclude that it proposes a system of progressive enforcement that can be applied to persons and institutions. While the details of the administrative penalties that are part of this system need to be set out in regulations that are not yet finalized, I am satisfied that the ministry has accepted and implemented in part this recommendation (**R21**).

Based on my review of Bill 7, I can conclude that the ministry will not implement in legislation those recommendations related to the establishment of an advisory body (**R1**), the right of the oversight body to meet with students (**R19(a)**), and an expanded student complaints process (**R27**, **29** and **30**). The lack of an expanded process for students to complain to the oversight body is particularly concerning.

Bill 7 also contains provisions for the ministry to publish, on a website, information about enforcement action against private career training institutions (including unregistered and formerly registered institutions), which partially addresses **R22**.

The majority of the recommendations in this report can be implemented through regulation or policy. Bill 7 establishes a framework that allows the ministry to implement additional recommendations, including:

- establishing requirements in regulation for private career training institutions' complaint processes (**R24**)
- establishing in regulation program approval criteria, and program changes requiring prior approval from the oversight body (**R12** and **R13**)
- establishing in regulation compliance standards and requirements for certification and the application process, which could include regulations for site visits before and after certification (**R9**, **R10**, **R11**, and **R17**)

As the ministry has not yet made public any regulations or policy, I am unable to conclude at this time whether or not the ministry's actions in response to these recommendations will adequately and appropriately address the administrative unfairness and procedural deficiencies identified in the report. As it works to finalize the new regulatory framework, the ministry has an opportunity to develop regulations and policy that provide more effective protection for students.

The Office of the Ombudsperson will regularly monitor and report publicly on the actions taken by the ministry to implement all of the recommendations in this report.





Focus on Students

A student has just spent \$40,000 and four years training to obtain certification in her chosen area of study. She has borrowed money and deferred other opportunities to pursue her educational goal. However, after graduating, she learns that the program offered by the accredited, privately operated “college” where she obtained her credentials is not approved by the governing body for her intended profession. The student cannot work in her field, and her hard-earned certificate is essentially worthless. What can students like this do? Where can they go for help? ³

This is an example of how serious the problems faced by students at private career training institutions in British Columbia can become. It highlights the importance of timely, active provincial oversight in ensuring students receive the education to which they are entitled and the protection they deserve.

Our Office has received and investigated individual complaints about the Private Career Training Institutions Agency (PCTIA), a Crown corporation responsible for the regulation and oversight of private career training institutions in British Columbia. Through these investigations, we identified problems that appeared to be systemic in nature. In March 2013, we learned that the Ministry of Advanced Education was planning to overhaul its quality assurance processes for all post-secondary institutions including private career training institutions, as described in a Green Paper released by the ministry that month.⁴ In June 2013, we met with the ministry to discuss our systemic concerns about PCTIA’s oversight of private career training institutions. We were hopeful that the administrative fairness issues we had raised in individual complaints could be addressed by a new quality assurance model. However, by February 2014 we learned that the ministry no longer planned to implement the model proposed in the Green Paper. We began this systemic investigation that month.

The government’s decision to regulate private career training institutions recognizes the importance of student protection in this industry. It also recognizes that by providing essential career training (in many cases, with funding from government programs, including student loans and retraining funds), these institutions are “instruments of public policy.”⁵ The *Private Career Training Institutions Act*, which establishes PCTIA, enshrines in law a requirement that educational standards at private career training institutions are established and followed, that students are adequately protected, and that the oversight of these institutions is carried out in the public interest. These legislative goals can only be met through a regulatory and oversight program that is administered fairly, reasonably and effectively.

When the Ministry of Advanced Education dissolved PCTIA’s board and embarked on a process of legislative change in April 2014, we decided to use our investigation into PCTIA’s operations to identify basic principles of administrative fairness that should be considered by the ministry in developing new legislation and regulations. The planned legislative overhaul represents an opportunity to identify both good practices and gaps in the existing regulatory framework. Our investigation also

³ This example is based on the Private Career Training Institutions Agency’s oversight of the Shang Hai TCM College of BC Canada. See Appendix 1 – Missed Opportunities: PCTIA’s Oversight of the Shang Hai Traditional Chinese Medicine College for an analysis.

⁴ See Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014 for further discussion of the Green Paper.

⁵ Roger Pizarro Milian and Martin Hicks, *Ontario Private Career Colleges: An Exploratory Analysis* (Toronto: Higher Education Quality Council of Ontario, 2014), 30.

examined, where applicable, implications for the oversight of private language schools, which are not currently regulated in British Columbia. As a result of changes to the federal government's student visa program, these schools will be regulated by the provincial government for the first time in a decade.

The focus of this systemic investigation is consistent with the role of the Ombudsperson to uphold the democratic principles of openness, transparency and accountability, to ensure that every person in British Columbia is treated fairly in the provision of public services, and to promote and foster fairness in public administration. Through individual and systemic investigations, the Ombudsperson identifies and defines principles of administrative fairness that all public agencies should follow in their operations.

Our investigation, and this report, focuses mainly on administrative fairness as it relates to the students attending private career training institutions. Students at these institutions have various backgrounds. According to a 2007 survey, a significant majority (79 per cent) of students attending private career training institutions in British Columbia are female.⁶ The same survey identified other groups who tend to enrol in private career training institutions, including older adults retraining or re-entering the workforce after an absence, people attending programs not available elsewhere, people interested in short programs that provide specific skills transferable to the workplace, and immigrants retraining because their previously obtained credentials are not recognized in Canada.⁷ According to PCTIA, about 20 per cent of students at private career training institutions in British Columbia are international, a proportion that is higher than in other types of post-secondary institutions, including public institutions, in the province. Across Canada, a large minority (39 per cent) of students at private career training institutions have a household income less than \$20,000 and most (58 per cent) have a high school diploma as their highest level of education obtained.⁸

It is essential that everyone whose interests are affected by the process for regulating private career training institutions is treated fairly, including both students and institutions. During our investigation, we heard from operators of institutions who want to ensure they are treated fairly by the oversight body. Those operators who have worked hard to develop quality programs recognize that their work is supported by adequate oversight and timely decision making. Appropriate and adequate protection for students, and regular contact between students and the oversight body, assists everyone who has a vested interest in the effective operation of private career training institutions.

We focused this investigation on students because they do not have any larger organizations advocating for their interests such as the BC Career Colleges Association that represents private career training institutions. Students at private career training institutions are also not part of national student organizations such as the Canadian Federation of Students or the Canadian Association of Student Associations that represent the interests of students attending public institutions. Some students we heard from were not even aware of PCTIA or of its oversight role. Many students take on significant amounts of debt and put their lives on hold to attend a private career training institution; the consequences can be devastating if things go wrong. This makes it particularly important that the

⁶ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: Canadian Millenium Scholarship Foundation, 2008), 9.

⁷ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: Canadian Millenium Scholarship Foundation, 2008), viii.

⁸ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: Canadian Millenium Scholarship Foundation, 2008), vii, 9, 15.

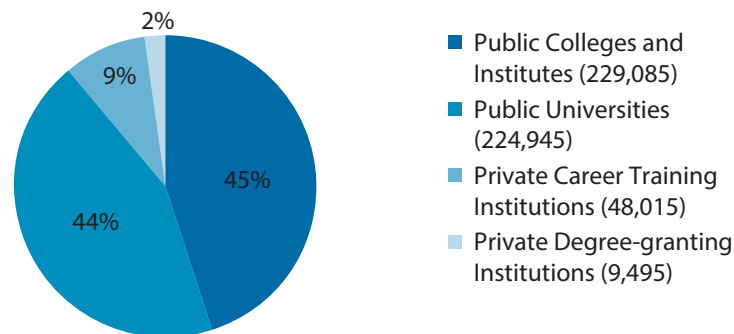
voices of students are part of the discussion around the regulation and oversight of private career training institutions in British Columbia.

This report and its findings and recommendations were drafted and provided to the ministry prior to the Minister of Advanced Education introducing *Bill 7 – Private Training Act* in the legislature in February 2015. It therefore uses some terms that are not reflected in the proposed legislation. Bill 7 replaces the two categories of “registered” and “accredited” institutions with “certified” and “designated” institutions. Unlike the existing Act, Bill 7 does not contain any reference to basic education standards or accreditation standards. In addition, Bill 7 renames the Student Training Completion Fund the “Student Tuition Protection Fund.” These changes in terminology do not affect the substance of our report or recommendations. We have therefore retained the original terminology throughout the report for clarity.

Post-Secondary Education in British Columbia

Private career training institutions are part of the broader post-secondary education sector in British Columbia, which offers students both public and private options to obtain certificates, diplomas or degrees. More than 500,000 students attend a post-secondary institution in British Columbia every year (Figure 1).

Figure 1: Students at Post-Secondary Institutions in British Columbia, 2013⁹



Most British Columbians are familiar with the public post-secondary education system, which consists of 11 universities, 11 colleges and 3 institutes.¹⁰ These institutions offer degrees, certificates and diplomas as well as developmental and continuing education courses. For example, the goal of public colleges, as defined

⁹ Unfortunately, the Ministry of Advanced Education does not have a consistent methodology for establishing student enrolment or headcount numbers across all four types of post-secondary institutions in British Columbia. The information in Figure 1 includes both domestic and international students and is based on the most recent available figures for each sector. It represents an overall comparison of students in each of the four main types of institutions. The source for private career training institutions data is Private Career Training Institutions Agency, *2012/13 Enrolment Report*, 12. The data for public institutions (universities, colleges and institutes) and for private degree-granting institutions shows student headcount, which is the number of students registered in all reported instructional activity, including skills courses and remedial or qualifying courses. This data is from the Ministry of Advanced Education, “International and Domestic Student Headcount by Economic Development Region and Institution,” August 2014; Ministry of Advanced Education, “BCDAA Institutions: Student Headcount Enrolment (Residency), Degrees Awarded and Tuition, 2013–14.” The ministry also reports on the student full-time equivalent (FTE) enrolments at British Columbia public post-secondary institutions. In fiscal year 2012/13, FTE enrolment at all public universities, colleges and institutes in British Columbia was 187,862. FTE enrolment is determined in accordance with the procedures set out in the Ministry of Advanced Education’s *Student FTE Enrolment Reporting Manual for Institutions in the BC Post-Secondary Central Data Warehouse*, 1 April 2005 (updated June 2014). The Ministry of Advanced Education told us that there is no system wide set of enrolment definitions or business practices across public and private institutions.

¹⁰ Ministry of Advanced Education, “B.C. Post-secondary Education – Overview” <<http://www.aved.gov.bc.ca/publicpsed/welcome.htm>>.

in the *College and Institute Act*, is to provide comprehensive first and second year bachelor's level programs, applied bachelor's degree programs, post-secondary education or training, adult basic education and continuing education.¹¹ Public colleges, universities and institutes in British Columbia had 454,030 students attending in academic year 2012/13, representing 89 per cent of all post-secondary students in the province.¹² International students accounted for 36,255 of these enrolments, or about 8 per cent of the total students attending public institutions.¹³ Tuition and other fee revenue collected by public universities in 2012/13 was approximately \$1.063 billion, while public institutes and colleges in 2012/13 collected an additional \$303 million in tuition and fee revenue.

As of August 2014, there were 19 private or out-of-province public institutions authorized under the *Degree Authorization Act* to grant associate, bachelor's, master's or doctoral level degrees.¹⁴ Private degree-granting institutions in the province had 9,495 students in 2013/14, with 4,388 of those students (46 per cent) being international (Figure 2).¹⁵ British Columbia regulates the circumstances under which programs leading to a degree may be offered. An institution, public or private, may only offer a new degree program if it has received authorization from the Minister of Advanced Education following a review of the proposed program by the Degree Quality Assessment Board.¹⁶ Each degree program must receive separate approval from the minister. A private institution must also seek approval from the minister to use the word "university" to indicate that an educational program is available.¹⁷ The Ministry of Advanced Education maintains a list on its website of the institutions not permitted to grant degrees in the province.¹⁸ There is no equivalent restriction on use of the word "college" to describe an educational institution in British Columbia. The term can be and is used by private career training institutions, language schools and public colleges established under the *College and Institute Act*.

There are approximately 320 private career training institutions registered with the Private Career Training Institutions Agency. As of October 31, 2013, private career training institutions enrolled 48,015 students, of whom 10,005 were international.

Private Career Training Institutions

There are approximately 320 private career training institutions registered with the Private Career Training Institutions Agency (PCTIA) and regulated under the *Private*

¹¹ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 6.

¹² Ministry of Advanced Education, "International and Domestic Student Headcount by Economic Development Region and Institution," August 2014. This includes students enrolled in "developmental" or "personal improvement and leisure" programs. These programs are generally not aimed toward credential completion. Additional sources: Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 12; Ministry of Advanced Education, "BCDAA Institutions: Student Headcount Enrolment (Residency), Degrees Awarded and Tuition, 2013–14."

¹³ Ministry of Advanced Education, "International and Domestic Student Headcount by Economic Development Region and Institution," August 2014.

¹⁴ A list of these institutions can be found on the Ministry of Advanced Education's website at <<http://www.aved.gov.bc.ca/privatepsd/institutions.htm#private>>. An additional 16 theological institutions are established under their own statutes to grant theological degrees; two of these institutions are authorized to grant academic degrees as well.

¹⁵ Ministry of Advanced Education, "BCDAA Institutions: Student Headcount Enrolment (Residency), Degrees Awarded and Tuition, 2013–14."

¹⁶ For most public universities in British Columbia, this requirement is found in the *University Act*, R.S.B.C. 1996, c. 468, s. 48(2); for colleges and institutes, this requirement is found in the *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 5.1; and for private or out of province institutions, this requirement is found in the *Degree Authorization Act*, S.B.C. 2002, c. 24, s. 4. The *Royal Roads University Act*, R.S.B.C. 1996, c. 468, s. 16 and the *Thompson Rivers University Act*, S.B.C. 2005, c. 17, s. 4(1) create similar requirements for their respective institutions by referentially incorporating the *University Act*, R.S.B.C. 1996, c. 468, s. 48(2).

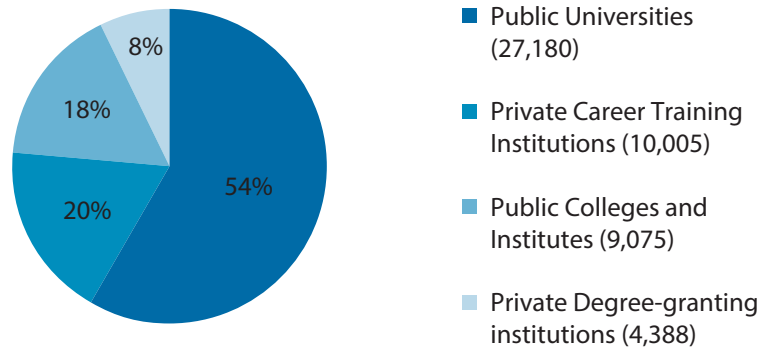
¹⁷ *Degree Authorization Act*, S.B.C. 2002, c. 24, s. 3(2).

¹⁸ Ministry of Advanced Education, "Degree Authorization: Institutions Not Authorized to Grant Degrees in British Columbia" <<http://www.aved.gov.bc.ca/degree-authorization/institutions/unauthorized-institutions.htm>>.

Career Training Institutions Act, the Regulation and the bylaws.¹⁹ Most private career training institutions are owned by corporations or individuals and run on a for-profit basis; however, a few, such as the Pacific Flying Club are run by non-profit societies. Some corporations own more than one institution.

As of October 31, 2013, private career training institutions enrolled 48,015 students, of whom 10,005 (21 per cent) were international (Figure 2). A 2007 survey identified that British Columbia, with 13 per cent of Canada's population, accounted for 32 per cent of the students attending private career training institutions across Canada.²⁰ The estimated tuition revenue collected by these institutions in British Columbia in 2013 was \$256 million, almost 20 per cent of the tuition and revenue collected by public institutions.²¹ These institutions can offer single courses as well as months- or years-long training programs leading to certificates or diplomas that prepare a person for employment. The private career training institutions oversight body cannot authorize these institutions to offer degree programs. To provide, advertise or grant degrees, they would have to obtain consent from the Minister of Advanced Education (through the Degree Quality Assessment Board) and would be subject to the board's oversight.²²

Figure 2: International Students at Post-Secondary Institutions in British Columbia, 2013²³



In British Columbia, the *Private Career Training Institutions Act* defines a private career training institution as an institution that provides “training or instruction in the skill and knowledge required for employment in an occupation defined in the

¹⁹ As mentioned earlier, since April 2014, the role of the PCTIA board has been fulfilled by the Deputy Minister of Advanced Education acting as public administrator. See “Dissolution of the Private Career Training Institutions Agency” later in this section for further discussion of this issue.

²⁰ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase I: Institutional Survey*, 24 May 2007, 16.

²¹ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 8.

²² For example, the Art Institute of Vancouver is regulated by PCTIA because it offers private career training. It has also received approval from the Degree Quality Assurance Board to grant bachelor's degrees: Ministry of Advanced Education, “B.C. Post-secondary Institutions – Private and non-B.C. public institutions” <<http://www.aved.gov.bc.ca/privatepsed/institutions.htm#private>>.

²³ This information is based on the most recent available figures for each sector. It represents an overall comparison of students in each of the four main types of institutions. The data for public institutions (universities, colleges and institutes) shows student headcount, which is the number of students registered in all reported instructional activity, including skills courses and remedial or qualifying courses. This figure compares overall enrolment rather than FTEs. Source for public institution enrolment: Ministry of Advanced Education, “International and Domestic Student Headcount by Economic Development Region and Institution,” August 2014. Information for this figure has also come from Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 12, and Ministry of Advanced Education, “BCDAA Institutions: Student Headcount Enrolment (Residency), Degrees Awarded and Tuition, 2013–14.” The Ministry of Advanced Education told us that there is no system wide set of enrolment definitions or business practices across the public and private institutions. As this data refers to post-secondary education, it does not include data from private language training or K-12 education, which is available on the ministry's website at <<http://www.aved.gov.bc.ca/internationaleducation/welcome.htm>>.

regulations”.²⁴ To come under the jurisdiction of the Act, the tuition charged by the institution must be greater than or equal to \$1,000, and the instructional time must be greater than or equal to 40 hours.²⁵

The Regulation defines an “occupation” as one that is included in the National Occupational Classification (NOC) list established by the federal government.²⁶ The province has specifically excluded religious occupations, driver training instructors and driving occupations that require the driver to hold a class 1, 2, 3 or 4 driver’s licence or an air brake endorsement from this definition of occupation.²⁷ However, the NOC definition is broad and covers a wide variety of occupations, including, for example, helicopter and airplane pilots, electricians, hairdressers, pipefitters, licensed practical nurses, heavy equipment operators, equine therapists, acupuncturists, legal assistants, commercial divers, office administrators, English as a second language teachers, artists, massage therapists, yoga teachers, health care assistants, and alternative therapists, from holistic nutritionists to hypnotherapists to practitioners of intuitive medicine.²⁸

Once a private career training institution has been registered and in good standing with PCTIA for a year, it can seek accreditation. This imposes additional requirements on an institution and allows it to seek designation with StudentAid BC which, in turn, enables students to apply for provincial student loan funding for their program. Since 2008, accreditation has also allowed an institution to seek B.C. Education Quality Assurance (EQA) designation.²⁹

Over the past several years, the number of both registered and accredited private career training institutions has dropped steadily. In 2006, PCTIA regulated 521 registered institutions, of which 206 were accredited.³⁰ By 2013, this had dropped to 312 registered institutions of which 155 were accredited.³¹ PCTIA attributed this decline in numbers to consolidation in the industry, de-registration by voluntary registrants, the closure of institutions and increased regulatory standards.³² As of June 30, 2014, 156 of the 320 registered institutions were accredited. On that date, a further 12 institutions were in the process of obtaining registration and 17 registered institutions had applied for accreditation.

Since June 1, 2009, PCTIA has been required to establish basic education standards that all registered institutions must meet.³³ When an institution proposes a new

²⁴ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 1.

²⁵ The Act excludes, however, any instruction provided by public and independent schools, public colleges and universities, institutions that only grant degrees under the *Degree Authorization Act*, other institutions that offer academic degrees, professional associations, and other publicly funded institutions: *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 1 and 3.

²⁶ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 2(2).

²⁷ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 2(2).

²⁸ The last three occupations in this list are included under NOC Code 3232, “Practitioners of Natural Healing”, which lists “holistic practitioner” as one of the job titles within this category. The College of Medical Intuition, which graduates Certified Medical Intuitives, has been registered with PCTIA since February 25, 2014.

²⁹ See Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014 for details.

³⁰ Private Career Training Institutions Agency, *Enrolment Report 2010*, 4 <<http://www.pctia.bc.ca/pdfs/PCTIA%20Enrolment%20Report%202010.pdf>>.

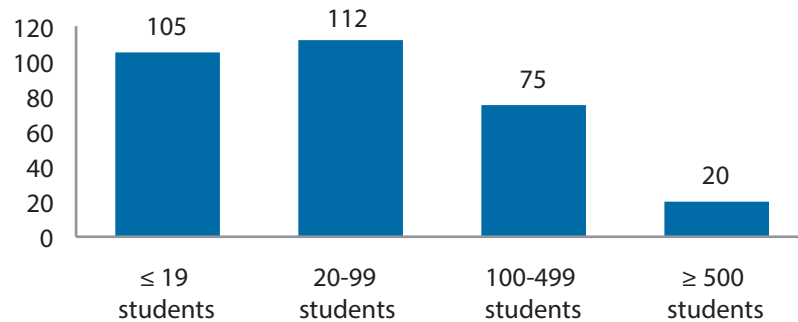
³¹ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 4 <<http://www.pctia.bc.ca/pdfs/PCTIA%202012-13%20Enrolment%20Report.pdf>>.

³² Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 1 <<http://www.pctia.bc.ca/pdfs/PCTIA%202012-13%20Enrolment%20Report.pdf>>; Private Career Training Institutions Agency, *Enrolment Report 2010*, 4 <<http://www.pctia.bc.ca/pdfs/PCTIA%20Enrolment%20Report%202010.pdf>>.

³³ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 3(a).

program, PCTIA determines whether the program meets the education standards set out in PCTIA's bylaws before approving it. There is no limit on the number of programs an institution may offer. In 2013, PCTIA reported an average of 8.8 programs per institution with an average enrolment of 17.5 students in each.³⁴ Institution size in the private sector varies greatly, as Figure 3 shows. In 2013, the largest 13 institutions each recorded more than 800 students enrolled, with enrolment ranging from 828 to 3,993 students.³⁵ According to PCTIA's enrolment report, the average enrolment per institution in 2013 was 154 students.³⁶

Figure 3: Number of Private Career Training Institutions by Number of Students Enrolled³⁷



In many cases, programs are offered by both public post-secondary institutions and private career training institutions. Programs offered at private career training institutions and at public colleges, universities or institutes include:

- health care assistant
- hairdressing
- practical nursing
- graphic design
- dental assistant
- construction electrician foundation
- heavy equipment operator
- website design
- legal assistant
- automotive service technician
- pipefitting
- marketing
- hospitality management
- performing arts

Moreover, the provincial government's post-secondary education policy is currently focused on ensuring that post-secondary education provides the skills and training to prepare students for employment, particularly in trades for the liquefied natural gas (LNG) and the natural resource sectors.³⁸ While the Ministry of Advanced Education has focused on increasing funding for trades education at public colleges and institutions, waitlists for the public programs mean that private career training institutions may see an opportunity to fill any training gaps.³⁹ The provincial government has described private institutions as helping

³⁴ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 5 <<http://www.pctia.bc.ca/pdfs/PCTIA%202012-13%20Enrolment%20Report.pdf>>.

³⁵ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 10 <<http://www.pctia.bc.ca/pdfs/PCTIA%202012-13%20Enrolment%20Report.pdf>>.

³⁶ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 5 <<http://www.pctia.bc.ca/pdfs/PCTIA%202012-13%20Enrolment%20Report.pdf>>.

³⁷ As of October 31, 2013.

³⁸ WorkBC, *B.C.'s Skills for Jobs Blueprint: Re-Engineering Education and Training*, 2014.

³⁹ See Ministry of Advanced Education, "Trades students benefit from 1,424 new training seats throughout B.C.," news release, 31 July 2014. This news release reported that new funding would reduce student wait time for the top 12 LNG-related trades occupations by an average of more than eight months. Some reports have suggested that anticipated demand for skilled trades workers as a result of anticipated LNG projects will exacerbate existing skilled labour shortages in British Columbia: see Jacob Parry, "B.C. looks to rehaul post-secondary to meet the needs of LNG," BC Business, 27 August 2014 <<http://www.bcbusiness.ca/natural-resources/bc-looks-to-rehaul-post-secondary-to-meet-the-needs-of-lng>>.

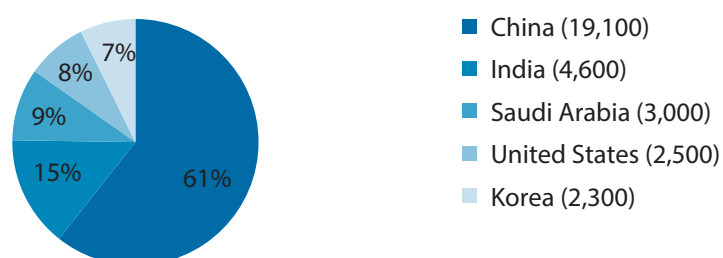
“to ensure students are gaining learning, skills and experience to be first in line for jobs opening up around the province.”⁴⁰ PCTIA’s 2013/14 annual report highlighted the importance of regulation of the private post-secondary sector given an expected need for skilled workers to fill increasing shortages.⁴¹

The overlap between programs offered at public and private institutions means students in trades and other programs, including those listed above, may be choosing between public and private institutions when pursuing their post-secondary education. As Figure 1 demonstrates, close to one out of every ten students enrolling in post-secondary education in British Columbia attends a private career training institution. In addition, private language training schools cater almost exclusively to international students. In 2011/12, private language schools in British Columbia enrolled 47,300 international students.⁴²

A significant proportion of students at private career training institutions – one in every five – are from outside Canada. A federal government survey of international students found that for 97 per cent of students, the quality of education was a somewhat important or very important factor in deciding to study in Canada.⁴³ The money spent by all international students (at both public and private institutions) on tuition, supplies and living expenses has a significant impact on British Columbia’s economy, contributing about \$1.78 billion each year.⁴⁴ In 2010, the province estimated that international students attending private post-secondary institutions in British Columbia spent \$33,150 each, and international students attending language training schools spent on average \$7,856 per person.⁴⁵ Since 2010, the provincial government has focused on increasing the number of international students coming to study in British Columbia.⁴⁶ Figures 4 and 5 show the countries that send the most students to British Columbia to study at the post-secondary level (at both public and private institutions) and at private language schools.

A significant proportion of students at private career training institutions – one in every five – are from outside Canada.

Figure 4: Top Five Countries Sending Students to British Columbia for Post-Secondary Education⁴⁷



⁴⁰ Ministry of Advanced Education, “FACTSHEET: Private post-secondary institutions in B.C.” 21 August 2014.

⁴¹ Private Career Training Institutions Agency, *2013/14 Annual Report*, 21.

⁴² Roslyn Kunin & Associates, Inc., *An Update on the Economic Impact of International Education in British Columbia*, British Columbia Council for International Education, November 2013, iii.

⁴³ Canadian Bureau of International Education, cited in Citizenship and Immigration Canada, *Evaluation of the International Student Program*, July 2010, 20.

⁴⁴ It is estimated that international students in the entire post-secondary education system contribute about \$1.45 billion to the provincial economy each year, with students in language schools contributing an additional \$333.7 million: see Roslyn Kunin & Associates, Inc., *An Update on the Economic Impact of International Education in British Columbia*, British Columbia Council for International Education, November 2013, 13–15.

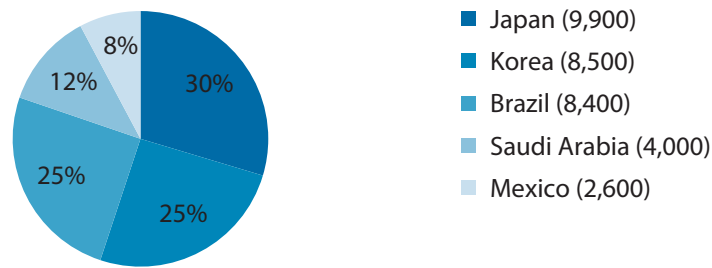
⁴⁵ The BC Jobs Plan, *British Columbia’s International Education Strategy*, 2012, 8.

⁴⁶ The BC Jobs Plan, *British Columbia’s International Education Strategy*, 2012, 13–14.

⁴⁷ Ministry of Advanced Education, “Celebrating International Education Week in B.C.,” news release, 17 November 2014.

Equal protection for students at public and private institutions is a fundamental principle of administrative fairness.

Figure 5: Top Five Countries Sending Students to British Columbia for Private Language Training⁴⁸



Many international students are in a uniquely vulnerable position due to language, culture and their immigration status in Canada. The large proportion of international students who attend private career training institutions makes it even more important that British Columbia has a system of provincial oversight that helps to ensure all students are adequately protected, that quality standards are met, and that students are able to successfully complete the education they may have travelled around the world to receive. As PCTIA recognized in its 2013/14 annual report, effectively regulating private career training institutions and ensuring students are properly protected “helps promote British Columbia as a highly desirable destination, particularly to the international market.”⁴⁹

Principles of Administrative Fairness

Students who choose a private career training institution for their education should not be at a “fairness disadvantage” compared to students at public institutions. They should have equal protections. This section outlines some of the administrative fairness principles that, applied to the regulation and oversight of private career training institutions in British Columbia, would help to ensure an equal level of protection for all students.

Administrative fairness consists of applying well-recognized principles of procedural fairness and effective public administration. These principles include:

- clear and accessible public information
- consistent and appropriate standards
- adequate monitoring and enforcement
- timely and responsive complaint resolutions
- impartial decision-makers with no interest in the outcome
- the right to be heard in respect of a decision affecting a person’s rights or access to programs

Students may choose to enrol in a private career training institution for a variety of reasons. For some, it is the only way to obtain training in their community. For others, the private career training institution allows them to complete their training quickly and get into the workforce. In some cases, it is more accessible, or offers a program that is not available elsewhere. Some people may even be referred to private career training institutions by government agencies, such as WorkSafeBC. A 2007 survey of students in British Columbia found that 46 per cent of students chose their institution because of a specific program, 35 per cent because of the institution’s reputation or quality, and 33 per cent because of the short program length.⁵⁰

⁴⁸ Ministry of Advanced Education, “Celebrating International Education Week in B.C.,” news release, 17 November 2014.

⁴⁹ Private Career Training Institutions Agency, *2013/14 Annual Report*, 8.

⁵⁰ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: The Canada Millennium Scholarship Foundation, 2008), 30.

Regardless of their reason for enrolling, students at any post-secondary institution – public or private – should reasonably expect that they will receive a high quality education that will adequately prepare them for their chosen career. With this in mind, we consider equal protection of students at public and private institutions to be a fundamental principle of administrative fairness.

However, students at private career training institutions are already unequal in one key respect. With few exceptions, where there is an equivalent program at a public institution, the students at the private career training institution invariably pay significantly more in tuition.⁵¹ There is some indication that these students, as a result, have higher debt levels than students at public institutions and accumulate that debt at a higher rate.⁵² In 2007, British Columbia's private career training institutions had the highest average tuition cost in the country and 17 per cent of their programs cost more than \$20,000.⁵³ In 2009, 20 per cent of enrolments were in programs with tuition fees of more than \$11,000.⁵⁴ As of December 2014, almost 24 per cent of the programs registered with PCTIA had tuition over \$11,000.

The tuition charged by private career training institutions is unregulated by the provincial government, so the institutions are free to charge the amounts they believe are appropriate. Moreover, they do not receive the direct government funding that public institutions do, and are fully reliant on tuition fees. As Figures 6 through 10 illustrate, the average domestic tuition for programs offered at private career training institutions can be significantly more than the tuition for the same program at a public institution, though in a few cases, tuition charged by public and private institutions is very similar, as shown in Figure 11.

Figure 6: Average Domestic Tuition at Public and Private Institutions for Practical Nursing Certificate (Program length: 16–24 months)

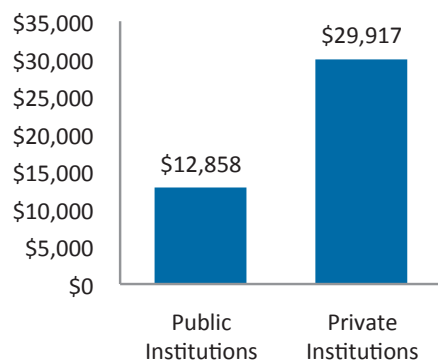
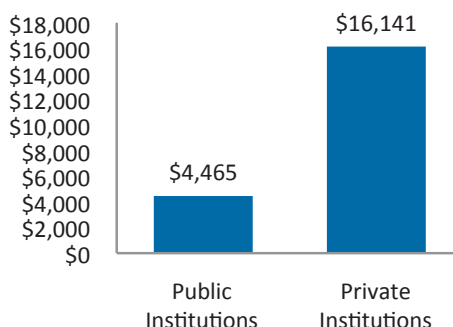


Figure 7: Average Domestic Tuition at Public and Private Institutions for Dental Assistant Certificate (Program length: 10–15 months)



As of December 2014, almost 24 per cent of the programs registered with PCTIA had tuition over \$11,000.

⁵¹ In 2007, 59 per cent of private career training institutions across Canada charged between \$5,000 and \$10,000 in average annual full-time tuition fees, while 22 per cent of institutions charged more than \$10,000: R. A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase I: Institutional Survey*, 24 May 2007, 27.

⁵² R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: The Canada Millennium Scholarship Foundation, 2008), viii.

⁵³ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: The Canada Millennium Scholarship Foundation, 2008), 31.

⁵⁴ Stephen J. Siblock, *PCTIA Focus on Enrolment 2009: British Columbia Private Career Training Sector Enrolment Report* (Burnaby: Private Career Training Institutions Agency, 2010), 9 <<http://www.pctia.bc.ca/pdfs/PCTIA%20Focus%20on%20Enrolment%202009.pdf>>.

Figure 8: Average Domestic Tuition at Public and Private Institutions for Construction Electrician Foundation Diploma (Program length: 5.5 –7 months)

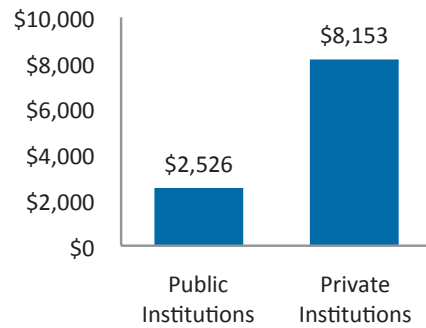


Figure 9: Average Domestic Tuition at Public and Private Institutions for Health Care Assistant Certificate (Program length: 6–10 months)

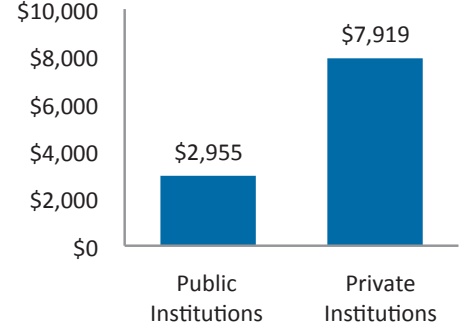


Figure 10: Average Domestic Tuition at Public and Private Institutions for Office Administrator Certificate or Diploma Programs (Program length: 7–9.5 months)

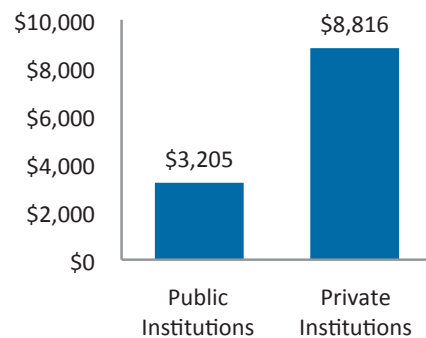
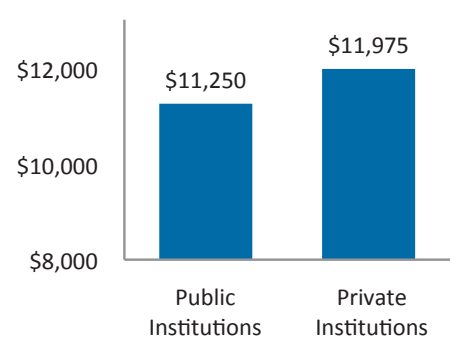


Figure 11: Average Domestic Tuition at Public and Private Institutions for Beginner Excavator Operator Program (Program length: 1–2 months)



Equal protection does not mean that structures and processes at private career training institutions and at public institutions must always be identical; there are important distinctions between the two. Nonetheless, as a basic principle, students at private institutions should not have any fewer protections than students at public institutions, nor should the complaints processes they have access to be any less rigorous. This is particularly the case when equivalent programs exist in both private and public institutions. Post-secondary education can represent a significant investment for many students who sacrifice both time and money and often go into debt to finance their education. It should not be a risky endeavour. When private institutions charge tens of thousands of dollars for a two-year (or less) program, safeguards need to be in place to ensure students are adequately protected.

Following from this basic principle of equal protection, the body responsible for the oversight of private career training institutions must also ensure that:

- its structure allows for impartial decision making
- information about students' rights and the role of the agency is readily available
- appropriate minimum education standards are in place for all institutions
- there is a regular and effective program of monitoring to ensure that institutions are, in practice, meeting the established educational requirements
- students have access to fair complaints processes
- an appropriate system of enforcement of standards is in place and enforcement decisions are available publicly

The Student Training Completion Fund

The Student Training Completion Fund (STCF) is established in the *Private Career Training Institutions Act* to provide some financial protection to students attending private career training institutions. It functions as an insurance fund for students at these institutions.

The STCF is administered by the PCTIA board, although this role may be delegated to a PCTIA employee.⁵⁵ Since PCTIA was established in 2004, students have been able to obtain a tuition refund for the unfinished part of their program if their institution closes before they are able to complete their program.⁵⁶ The Act was amended, effective June 1, 2009, to also allow students who have been misled by an institution “regarding the institution or any aspect of its operations” to apply to PCTIA for a refund of tuition paid.⁵⁷ The STCF does not refund other fees, such as administrative fees and application fees, fees for textbooks, course material or equipment,⁵⁸ or a student’s living expenses.

All registered institutions pay into the STCF. They pay a flat fee of \$2,000 upon registration⁵⁹ and an additional amount on a monthly basis. The amount that institutions pay monthly ranges from 0.4 per cent to 1 per cent of tuition paid under each student enrolment contract during the previous month.⁶⁰ Institutions that are accredited and have been in good standing (meaning they have not been subject to suspension or cancellation) pay a percentage at the lower end of the scale.⁶¹ All money received by the STCF is held in trust to reimburse students in the circumstances described above.⁶² A registered institution that is found to have misled a student must repay the board the amount the board pays out to the student within 30 days of being notified of this requirement.⁶³

Changes to the Private Career Training Institutions Agency

In April 2014, the Ministry of Advanced Education announced that the PCTIA board was suspended and the Deputy Minister of Advanced Education was appointed as public administrator to carry out all of the functions of the board. The ministry outlined plans to introduce new legislation that would dissolve PCTIA and integrate its functions into the ministry.⁶⁴ This policy shift was identified as a means to strengthen quality assurance in the sector, eliminate overlapping processes with

⁵⁵ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 13(3).

⁵⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 15. This refund may be paid to another institution if students are able to transfer their program after the first institution closes.

⁵⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 15(a.1). See the Complaints section of this report for a detailed discussion of refunds under this section of the Act.

⁵⁸ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 1. Under its predecessor, the *Private Post-Secondary Education Act*, a student who was misled or who attended an unregistered institution could obtain a refund of the “total fees” paid to the institution: *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 28(1).

⁵⁹ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 4(3).

⁶⁰ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5(2) and (3).

⁶¹ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.

⁶² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 13(4)(a).

⁶³ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.1.

⁶⁴ Ministry of Energy and Mines and Responsible for Core Review and Ministry of Advanced Education, “Core Review strengthens private institutions, libraries and international education,” news release, 17 April 2014; Private Career Training Institutions Agency, *2013/14 Annual Report*, 3.

financial aid designations, and provide an approach that is more consistent with other jurisdictions in Canada.⁶⁵

Following the dissolution of the board, the Ministry of Advanced Education initiated a consultation process with private career training institutions in British Columbia. Consultations took place in May and June 2014. The focus of the ministry's first phase of consultation was on registration and accreditation, student complaints, the Student Training Completion Fund, institutional appeals and compliance and enforcement. In November and December 2014, the ministry conducted a second phase of consultation, which obtained input from institutions on the regulatory scheme to accompany the new legislation, including associated fees, standards, processes and other matters currently outlined in the PCTIA bylaws. The ministry also met with managers and owners of private language schools to receive feedback on issues that are unique to their sector.⁶⁶

Investigative Process

In March 2013, the Ministry of Advanced Education issued a Green Paper on the Quality Assurance Framework for British Columbia's post-secondary institutions.⁶⁷ The Green Paper proposed that all post-secondary institutions in British Columbia, including public and private degree-granting institutions, private career training institutions, private language schools and First Nations controlled institutions, should be regulated by a single "program review" body.⁶⁸ Following the release of the Green Paper, the Office of the Ombudsperson met with the Ministry of Advanced Education to discuss the nature of the concerns and complaints we had dealt with, and to identify elements important to the fair and effective functioning of a quality assurance process. These elements included adequate complaints processes, accessible public information, ongoing monitoring and compliance programs and a regulatory body that serves the public interest and avoids potential conflicts of interest. In February 2014, when it became clear that the ministry would not be implementing the Green Paper proposals, the Ombudsperson notified the ministry and PCTIA of the systemic investigation.

Issues Considered

The Office of the Ombudsperson investigated the regulation and oversight of private career training institutions by the Ministry of Advanced Education and PCTIA. We considered the following issues in our investigation:

- governance
- availability of information about PCTIA and the institutions it oversees
- monitoring and quality assurance processes
- enforcement
- complaints processes

⁶⁵ Ministry of Energy and Mines and Responsible for Core Review and Ministry of Advanced Education, "Core Review strengthens private institutions, libraries and international education," news release, 17 April 2014.

⁶⁶ Private Career Training Institutions Agency, "B.C. Private Language Schools Invited to Ministry Consultation Session," news release, 12 June 2014.

⁶⁷ Ministry of Advanced Education, "Quality Assurance Framework British Columbia," Green Paper, March 2013. See Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014 for more details about the Green Paper.

⁶⁸ Ministry of Advanced Education, "Quality Assurance Framework British Columbia," Green Paper, March 2013, 31.

Public Agencies Involved

The public agencies involved in this investigation are:

- Ministry of Advanced Education
- Private Career Training Institutions Agency (PCTIA)

Document Review

Our investigation included a review of past and existing legislation including:

- *Private Post-Secondary Education Act*
- *Private Career Training Institutions Act* and the Regulation
- *Degree Authorization Act*
- *University Act, College and Institute Act* and the enabling statutes for individual post-secondary institutions

We also reviewed past and current versions of PCTIA's bylaws and relevant ministerial orders. We examined reports, policies, procedures, guidelines and forms related to the process by which PCTIA regulates and oversees private career training institutions. We also reviewed PCTIA's institution files and we met with staff from both PCTIA and the Ministry of Advanced Education.

Information Received from Other Sources

During our investigation, we heard from individuals and groups with an interest in the regulation and oversight of private career training institutions. Through our public input form, we heard from current and former students and instructors at institutions. We also received input from the BC Career Colleges Association and visited private career training institutions where we toured the facilities and met with the owners, operators and staff of these institutions. We conducted a cross-jurisdictional review of legislation, regulation and policies regulating private career training institutions across Canada.

Structure of Report

The next sections of the report detail our investigation into the regulation and oversight of private career training institutions. These sections focus on:

- Governance
- Information for Students
- Monitoring
- Enforcement
- Complaints

Provincial Oversight of Private Language Schools

At the time we completed our investigation there was no provincial oversight body for private language schools in British Columbia. During our investigation, the provincial government publicly announced that private language schools had to use PCTIA's existing registration and accreditation process to obtain Education Quality Assurance and International Student Program designations, both necessary

to receive international students. As the final model for regulating private language schools has not yet been established, the focus of our report is on the oversight of private career training institutions. However, in order to ensure quality education and student protection, the recommendations in our report should also, wherever appropriate, be applied to the oversight of private language schools that have to be registered and accredited in order to obtain designation.



The Private Career Training Institutions Agency (PCTIA) is the Crown corporation that currently regulates private career training institutions in British Columbia.⁶⁹ PCTIA was established in 2004 and until April 17, 2014, it was governed by a board of elected and appointed members. This board was responsible for serving the public interest, including the interests of students attending registered institutions, by governing, controlling and administering the affairs of PCTIA in accordance with the *Private Career Training Institutions Act*, the Regulation and the bylaws.⁷⁰

On April 17, 2014, the Ministry of Advanced Education announced that PCTIA would be dissolved and its functions transferred to the ministry.⁷¹ On the same day, the Deputy Minister of Advanced Education was appointed as public administrator to discharge the powers of the PCTIA board. This meant that all functions previously performed by the board would, moving forward, be performed by the public administrator.⁷² PCTIA staff continued to oversee the regulation of private career training institutions.

Although the PCTIA board no longer exists, the way in which any private career training institutions oversight body is governed has important implications for administrative fairness in the oversight and regulation of private career training institutions.

Regulation Prior to PCTIA

Before the Private Career Training Institutions Agency (PCTIA) was established in 2004, the Private Post-Secondary Education Commission regulated private post-secondary education in British Columbia. The Commission began operations in 1992 under the *Private Post-Secondary Education Act*, and regulated both private career training institutions and private language schools.⁷³ Its mandate was to provide consumer protection to students at registered institutions and ensure that accredited institutions met “standards of integrity and educational competence.”⁷⁴ Its board had up to 15 members appointed by the minister to terms not longer than three years.⁷⁵

The Commission’s powers included the ability to:

- issue directives to an institution or a class of institutions regarding any aspect of their operations⁷⁶

⁶⁹ See Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014 for a history of the regulation of private career training institutions in British Columbia.

⁷⁰ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 5(1).

⁷¹ Ministry of Energy and Mines and Responsible for Core Review and Ministry of Advanced Education, “Core Review strengthens private institutions, libraries and international education,” news release, 17 April 2014.

⁷² Ministry of Advanced Education, “PCTIA Transitions into the Ministry of Advanced Education” <<http://www.aved.gov.bc.ca/privatecareertraining/pctia-transition.htm>>.

⁷³ This resulted from the broad definition of “post-secondary education,” which included, with minor exceptions, all private training or instruction provided to those 17 years of age or older: *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 1(1) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁷⁴ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 2(2) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁷⁵ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 2(3) and (5) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁷⁶ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 3(1)(a) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).



- establish criteria for accreditation of institutions⁷⁷
- require an institution to provide information related to its operations⁷⁸
- assess an institution's teachers, programs, operations and administration⁷⁹
- set terms and conditions of registration and suspend, revoke or refuse registration if an institution was in breach of the Act, regulations or a directive⁸⁰

Under the Act, registered institutions were required to post bonds or other satisfactory forms of security to protect student tuition fees.⁸¹ A student could obtain a tuition refund if he or she learned that an institution was not registered or, if in the executive director's opinion, a student was misled "as a result of a representation made by an institution or its agent regarding the institution or any aspect of its operations."⁸²

In 2004, the *Private Post-Secondary Education Act* was repealed and replaced by the *Private Career Training Institutions Act*, which created PCTIA. The introduction of a new regulatory model resulted from the government's core services review.⁸³ PCTIA had a narrower jurisdiction than the Commission, as private language schools were no longer regulated. The government described the new *Private Career Training Institutions Act* as "allowing the private post-secondary sector to take greater responsibility for their actions."⁸⁴ One of the ways in which private career training institutions did this was through PCTIA's board.

Composition of the Board

The PCTIA board consisted of 10 members. The majority (seven members) were representatives of private career training institutions elected by institutions. A nominating committee made up of current board members determined which candidates were eligible to stand for election to the board.⁸⁵ All candidates for election were required to be owners or employees of registered institutions.⁸⁶ The remaining three members of the board were appointed by the Minister of Advanced Education.⁸⁷ In some years, one of the ministerial appointees was a current or former student of a private career training institution.

⁷⁷ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 3(1)(b) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁷⁸ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 3(1)(c) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁷⁹ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 4(2)(c) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁸⁰ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 7(2) and 7(3) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁸¹ *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 6(1) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁸² *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375, s. 28(1)(b) as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1).

⁸³ Hon. S. Bond, British Columbia Legislative Assembly, Hansard, 9 October 2003, 7292 <<http://www.leg.bc.ca/hansard/37th4th/h31009a.htm#7292>>.

⁸⁴ Hon. S. Bond, British Columbia Legislative Assembly, Hansard, 9 October 2003, 7292 <<http://www.leg.bc.ca/hansard/37th4th/h31009a.htm#7292>>.

⁸⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part C, s. 5.1.

⁸⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part C, s. 5.10. The seven elected members of the board were elected by representatives of private career training institutions. According to the bylaws, the members of the board were also required to be elected based on geographic region, with five representing institutions with campuses in the Lower Mainland and two representing institutions elsewhere in the province.

⁸⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part C, s. 3.2; *Private Career Training Institutions Act*, s. 4(2)(b).

Powers and Duties of the Board

PCTIA board responsibilities were set out in the *Private Career Training Institutions Act*:

- to serve the public interest, including the interests of students attending registered institutions⁸⁸
- to provide information about PCTIA to the Minister of Advanced Education, including a financial report on the operation of the Student Training Completion Fund (STCF)⁸⁹
- to appoint a registrar of PCTIA and establish the functions and duties of the registrar and the board⁹⁰

The board could establish bylaws to regulate both private career training institutions and PCTIA's activities, including:

- the number of elected PCTIA board members, their terms and the election process⁹¹
- requirements for initial registration and accreditation of institutions, including fees, and the requirements for renewal, suspension, cancellation or reinstatement of registration or accreditation⁹²
- advertising by institutions⁹³
- access by current and former students to their records⁹⁴
- "the general administration and operation of" PCTIA⁹⁵
- the persons who could file a claim against the Student Training Completion Fund, procedures to follow in making, investigating and adjudicating a claim, the maximum amount that could be paid to a claimant, and the classes of persons who could receive payments from the STCF⁹⁶

The board was required to file bylaws with the minister within 30 days of creating them, and the minister was authorized to order the board to amend, repeal or create bylaws.⁹⁷ The board was required to keep an up-to-date record of the bylaws and make them available to the public.⁹⁸

If necessary, in the public interest, Cabinet could appoint a public administrator to govern PCTIA, in which case board members would cease to hold office unless otherwise ordered.⁹⁹ Cabinet could decide which of the board's powers and duties would be exercised by the public administrator and how PCTIA would operate once the public administrator's term had ended.¹⁰⁰

⁸⁸ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 5(1).

⁸⁹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 5(2) and (3).

⁹⁰ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 5(5).

⁹¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(a) and (b).

⁹² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(g) to (l) and (p).

⁹³ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(m).

⁹⁴ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(o).

⁹⁵ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(q).

⁹⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(r). The *Private Career Training Institution Regulation* also describes the board's role when a claim has been made against the Student Training Completion Fund: *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 8 and (9).

⁹⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(3) and (4). The power to issue ministerial orders to amend PCTIA's bylaws has been exercised four times: Ministerial Order, 292, 16 October 2007; Ministerial Order, 1, 20 December 2007; Ministerial Order, 55, 6 March 2014 and Ministerial Order, 64, 10 March 2014.

⁹⁸ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(5).

⁹⁹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 22(1) and (2).

¹⁰⁰ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 22(3)(a) and (c).

To meet its goal of serving the interests of students and the public, the body overseeing private career training institutions must be structured in a way that allows it to effectively balance sometimes competing and often divergent interests.

Actual or Apparent Conflict of Interest

The *Private Career Training Institutions Act* requires that the board serve the public interest, including the interests of students attending private career training institutions.¹⁰¹ To meet its goal of serving the interests of students and the public, the body overseeing private career training institutions must be structured in a way that allows it to effectively balance sometimes competing and often divergent interests. As the board was responsible for such important tasks as establishing bylaws, adjudicating student complaints, and administering and authorizing payments from the Student Training Completion Fund, the board was obligated not to be biased, or be perceived to be biased, in favour of one group. Further, the board had to be structured and operate in a manner that would ensure the board would not be seen as favouring the interests of one group or putting its own interests first. The required composition of the board, however, made it impossible for it to take a broad view of actual or apparent conflict of interest. Viewed broadly, all elected members of the board could be perceived to have a conflict of interest on matters that were central to its role – for example, defining the scope of the student complaint process or establishing quality standards for institutions.

In day-to-day decision making, the board's composition and mandate meant it could be faced with a decision about an institution that one of its members represented, or with a decision about a competitor institution. To deal with these situations, the board developed bylaws regarding an actual or apparent conflict of interest.

The bylaws instructed board members to avoid any situation where a potential or perceived conflict of interest could "interfere with the board member's judgment in making decisions in the Agency's best interest."¹⁰² Each board member was responsible for informing the board of any personal or financial interest in a given matter, and had to provide sufficient notice of the interest to the Chair.¹⁰³ After this disclosure, the member could not take part in a discussion or vote on the matter.¹⁰⁴ A board member could "request a determination by the Board as to whether he or she has a conflict of interest." If the majority found that there was a conflict, then the member was not to participate in discussions or vote on the matter.¹⁰⁵

PCTIA's conflict of interest bylaws relied heavily on an individual board member's judgment and disclosure. Individual board members who did not believe they had a personal or financial interest in a given matter were not required to recuse themselves from the discussion or vote. Members were also supposed to consider whether a "perceived" conflict might exist, but the bylaws did not specifically direct them to consider whether the public might consider there to be a conflict or provide any examples of what constituted a conflict.

Our review of board meeting minutes found that these conflict provisions were not always consistently applied. For example, one member of the board recused herself from some but not all discussions about an institution she formerly owned. Another board member did not recuse himself from discussions about the institution for which he was the director or about tuition refunds for students of a closed institution, which was a competitor of an institution he co-founded.

¹⁰¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 5(1).

¹⁰² *Private Career Training Institutions Agency*, revised bylaw, 19 June 2014, Part C, s. 9.1.

¹⁰³ *Private Career Training Institutions Agency*, revised bylaw, 19 June 2014, Part C, s. 9.2 and 9.4.

¹⁰⁴ *Private Career Training Institutions Agency*, revised bylaw, 19 June 2014, Part C, s. 9.3.

¹⁰⁵ *Private Career Training Institutions Agency*, revised bylaw, 19 June 2014, Part C, s. 9.7. In our review of board meeting minutes from the past three fiscal years, we found one instance in which this provision was used. In that case, the majority found there was no conflict.

PCTIA's circumstances can be contrasted with those found in other contexts, such as local government, where the courts have found that the test for whether a conflict of interest exists is objective. That is, the question focuses on whether a reasonable person would perceive that a council member, in making a decision, might have been influenced by his or her interest in the subject matter.¹⁰⁶ The key considerations are not the public official's motives and state of mind, or the extent or amount of his or her interest. Rather, a conflict of interest arises whenever private interest and public duty exist at the same time.

Similarly, the Degree Quality Assessment Board (DQAB), which is responsible for assessing proposed public and private degree programs in British Columbia, has adopted an objective test in its conflict of interest policy. According to this policy, "there must be no apprehension of bias, based on what a reasonable person might perceive."¹⁰⁷ The DQAB policy lists examples of conflict, including:

- working for or previously employed by the institution
- being a student or a recent graduate of the institution
- having financial or other business interests with the institution
- collaborating regularly with the institution
- teaching at the institution¹⁰⁸

The definition of conflict in the DQAB policy includes the financial or personal interests of the board member and the interests of individuals with whom the member has an immediate family, intimate or commercial relationship.¹⁰⁹ Appointees to the DQAB must also follow the Board Resource Development Office's "Guidelines for Conduct of Government Appointments to BC Agencies, Boards and Commissions."¹¹⁰ Elected PCTIA board members were not subject to a similar requirement.

Comparison with Public Colleges

All post-secondary institutions must, in their operations, balance the sometimes competing, sometimes divergent interests of students, operators, instructors and the public. The need for all principal stakeholders – students, operators, instructors and the public – to have a say in the oversight of institutions is reflected in the governance structure of public colleges.

¹⁰⁶ *Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)*, [1990] 3 S.C.R. 1170, paras 54–57. A similar test is found in the *Members Conflict of Interest Act*, R.S.B.C. 1996, c. 287, s. 2(2), which applies to members of the legislative assembly and reads:

For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

¹⁰⁷ Ministry of Advanced Education, Degree Authorization, "Conflict of Interest and Confidentiality Policy – Board Members and External Experts" <<http://www.aved.gov.bc.ca/degree-authorization/board/conflicts-of-interest.htm>>.

¹⁰⁸ Ministry of Advanced Education, Degree Authorization, "Conflict of Interest and Confidentiality Policy – Board Members and External Experts" <<http://www.aved.gov.bc.ca/degree-authorization/board/conflicts-of-interest.htm>>.

¹⁰⁹ Ministry of Advanced Education, Degree Authorization, "Conflict of Interest and Confidentiality Policy – Board Members and External Experts" <<http://www.aved.gov.bc.ca/degree-authorization/board/conflicts-of-interest.htm>>.

¹¹⁰ Ministry of Advanced Education, Degree Authorization, "Conflict of Interest and Confidentiality Policy – Board Members and External Experts" <<http://www.aved.gov.bc.ca/degree-authorization/board/conflicts-of-interest.htm>>.

The Ministry of Advanced Education can enhance public confidence in the oversight of private career training institutions by ensuring that in any new model the interests of institutions are appropriately balanced with those of students, other stakeholders and the public generally.

Most public colleges and institutions in British Columbia are governed by the *College and Institute Act*.¹¹¹ Under this legislation, the board of each institution must include faculty, students, support staff, the president of the institution and Lieutenant Governor in Council (Cabinet) appointees.¹¹² In addition, each institution must have an education council that advises the board on prescribed issues related to educational policy, such as new program development, student discipline and admissions policies, and on the criteria for issuing certifications.¹¹³ The education council consists of elected faculty members, students and support staff, as well as educational administrators appointed by the president.¹¹⁴ In this way, students and other stakeholders, such as faculty and support staff, have a legislated role in the oversight of these institutions.

While it may not be practical for each private career training institution to have such a governance structure, a similarly structured body could provide advice to the ministry and any private career training oversight agency on the development of standards and regulations related to the quality of education provided by private career training institutions. This would provide a legislated role for all principal stakeholders – students, operators, instructors and the public – in the governance of private career training institutions, helping to ensure that a diversity of perspectives is represented in decision making. As well, the kinds of concerns about conflict of interest that arose from the structure and composition of PCTIA's board would be mitigated.

Analysis

Personal interest in an area is often a motivating factor for individuals to become involved on the board of a regulatory or oversight agency. However, with PCTIA, the structure and composition of the regulatory body gave a disproportionate role to the institutions being regulated. Students, other stakeholders and the public, in contrast, have had a minimal role in the regulation of these institutions as evidenced, for example, by the one student representative on the board when a majority of the members were from private career training institutions. The broadly perceived conflict of interest that arose from PCTIA's governance structure is inconsistent with the principle of equal protection of students at private career training institutions, and it undermines the extent to which the oversight body can be seen to effectively represent the interests of the public and students. In a letter to the minister, the PCTIA board itself identified "modifying the board make-up to reduce conflict of interest" as something that should be considered in any new legislation.¹¹⁵

The Ministry of Advanced Education can enhance public confidence in the oversight of private career training institutions by ensuring that in any new model the interests of institutions are appropriately balanced with those of students, other stakeholders and the public generally. This can be accomplished by ensuring that any governing body and advisory panel to the ministry includes representation from current or former students of private career training institutions and the public in addition to representatives from the private career training institutions themselves.

If the model chosen by the ministry mirrors the existing board model, then the board must include representation from institutions, students, other stakeholders

¹¹¹ *College and Institute Act*, R.S.B.C. 1996, c. 52.

¹¹² *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 9(1).

¹¹³ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 23(1).

¹¹⁴ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 15(1).

¹¹⁵ Private Career Training Institutions Agency, letter to the Minister of Advanced Education, 28 June 2013.

and the public, and institutional representation should not be a majority on the board. However, if the model developed by the ministry is similar to the model used to regulate private career training institutions elsewhere in Canada, then the ministry should ensure there is a legislated mechanism or process for all stakeholders to provide regular input to the ministry on the development of educational standards and regulations for private career training institutions.¹¹⁶

Finding and Recommendation

- F1** The Private Career Training Institutions Agency's board structure and composition created the perception of an inherent conflict of interest and did not adequately represent the interests of the public and students.
- R1** The Ministry of Advanced Education require in legislation that any governing or advisory body has balanced representation from institutions, students, other stakeholders and the public.
-



¹¹⁶ See "An Impartial Decision-Maker" in the Complaints section of this report for further discussion about the board.



Any private career training institutions oversight body needs to have in place a proactive system for informing students of their rights, the student protections that exist and the oversight body's role.

INFORMATION FOR STUDENTS

Reasonable access to accurate, adequate and useful information about a government agency is an important part of administrative fairness for people affected by the agency's decisions and actions.

A private career training institutions oversight body has three main audiences: the public, institutions and students. Currently, the Private Career Training Institutions Agency (PCTIA) has a website and reports publicly on its activities through an annual report and an annual enrolment report, which provide information about the agency's operations and the institutions it regulates. It is relatively easy for PCTIA to contact institutions – it has the names, physical addresses and email addresses of their operators. Institutions know that they can find information on PCTIA's website, as they are required to report some information electronically. Students are much more difficult to reach, however, because they may attend institutions for only short periods and are not required to be in contact with the oversight body. International students, who make up 20 per cent of students at private career training institutions, are even less likely to be familiar with the oversight body's role and mandate, making them more vulnerable.¹¹⁷ Any oversight body for private career training institutions needs to have in place a proactive system for informing students of their rights, the student protections that exist and the oversight body's role.

In this section of the report we focus first on steps to improve public and student knowledge of the oversight of private career training institutions. Second, we focus on how the oversight body can protect students from insufficient, misleading or incorrect information about the programs in which they enrol and the institutions they attend or plan to attend.

Student Knowledge of the Private Career Training Institutions Oversight Body

As the body currently responsible for overseeing private career training institutions, one of PCTIA's objectives is "to provide consumer protection to the students and prospective students of registered institutions."¹¹⁸ There is no specific requirement for PCTIA to provide students with information about the agency or its student protection role. However, PCTIA has recently taken some measures to increase its visibility among students. For example, since July 29, 2010, PCTIA has had a full-time student support coordinator who responds to calls from students and can provide them with some assistance in making a complaint.

PCTIA has information for students, including a complaint form, on its website. Often an agency's website is the first point of contact for information about its operations, and this is likely no different for the students of private career training institutions. To make use of information on a website, however, students first need to know that the agency exists and is relevant to their circumstances.

PCTIA does not offer formal interpretation services for students who may not be comfortable with communicating in English. PCTIA said that it tries to match people's language needs with staff members who speak languages other than English. With increasing numbers of international students attending private career training institutions and language training schools in British Columbia, some students who contact the private career training institutions oversight body will

¹¹⁷ As noted in Private Career Training Institutions Agency, 2013/14 Annual Report, 18.

¹¹⁸ Private Career Training Institutions Act, S.B.C. 2003, c. 79, s. 3(a).

need to be offered interpretation and translation services to ensure they have equal access to services and protection.

PCTIA also uses social media for some of its public communications, has placed ads aimed at students on public transit in the Lower Mainland, and in 2013 created a video for students, which is available on its website and on YouTube in English, Punjabi, Mandarin and Korean.¹¹⁹ This video explains PCTIA's role, discusses the Student Training Completion Fund and complaints processes, and refers students to PCTIA's bylaws for information about relevant basic education standards. The video also provides suggestions on how to choose an institution.

The information obtained during our investigation demonstrated, however, that one-third of the people who completed our input form did not know that PCTIA was responsible for overseeing private career training institutions, even though almost all of them were students or former students of such institutions.

A former student of a private career training institution who had completed a seven-month program in 2012 told us that she had never heard of PCTIA and was not aware of its oversight role. She believed the institution misrepresented the program she took. Even though she had a complaint, she was not aware of any processes she could have followed to address it, including contacting PCTIA.¹²⁰ Only one person who completed our input form was able to accurately describe the complaints process that is available to students who have complaints about private career training institutions.

PCTIA's 2013/14 annual report highlighted a further anticipated challenge, that of making students at private language schools aware of the oversight body's role.¹²¹ As a result of changes to federal government student visa regulations, language schools in British Columbia accepting international students for programs six months or longer will need to have the Education Quality Assurance (EQA) designation. As part of the EQA process, these language schools are required to apply for PCTIA accreditation, which means they will be subject to PCTIA oversight, and their students will need to know about PCTIA's role.

Analysis

For the private career training institutions oversight body to be effective, students need to know about it, its role and how it can protect their interests. Although PCTIA has taken some good steps to increase public and student awareness, there is more that the Ministry of Advanced Education can do.

Students who are not aware of the oversight body do not contact it. This means that students may not access the complaints process. It also means that students may not contact the oversight body with other information about private career training institutions that can help to determine whether the institutions are complying with regulatory requirements. It is important that all students at private career training institutions and at designated language schools have information about the oversight body, its role, and how it offers student protection, no matter which institution they attend, the duration of their program, or whether their program is delivered on-site or through distance education.

¹¹⁹ The English version of the video was published on YouTube on September 26, 2013, the Punjabi version on November 21, 2013, the Mandarin version on April 2, 2014, and the Korean version on April 8, 2014. As of September 18, 2014, the English language video on YouTube had been viewed 931 times, the Punjabi video 118 times, the Mandarin video 60 times and the Korean video 33 times.

¹²⁰ See the Complaints section of this report for information about PCTIA's complaints process.

¹²¹ Private Career Training Institutions Agency, *2013/14 Annual Report*, 19.

A student bill of rights should describe in plain language the protections students at private career training institutions can expect, the responsibilities of institutions and how these rights and responsibilities are protected and enforced.

Student protection is not just about making students aware of the complaints process. Students are better protected when they are informed of, and understand, the oversight body's role in ensuring institutions comply with quality standards and what institutions are required to do to meet these standards. Many of the existing PCTIA quality standards relate directly to student protection. For example, institutions are to hire only qualified instructors, maintain student records and provide students with adequate equipment to complete their program.

In his 2008 report on the regulation of private career training institutions in British Columbia, John Watson outlined some of the key protections that should be available to students:

- transparency and clarity with respect to institution status, programs, accreditation, fees and policies
- financial protection so that tuition is not lost or wasted
- quality assurance that ensures an institution's programs give students a chance to achieve educational outcomes and career opportunities promised or implied by the institution
- natural justice in administrative matters so that serious complaints against an institution or its staff will be adjudicated in a timely way by an independent decision-maker¹²²

One way to translate these student protections into something that students can easily access and use, and to increase student knowledge of the oversight body, is to create a "student bill of rights." In his report, Watson recommended that student protections be set out in a Charter of Student Rights and Responsibilities.¹²³ In its 2008/09 annual report, PCTIA identified the development of a Charter of Student Rights and Responsibilities as an uncompleted step in its strategic goal of optimizing student protection.¹²⁴ PCTIA has not, however, taken any steps toward developing such a document.

A student bill of rights should describe in plain language the protections students at private career training institutions and designated language schools can expect, the responsibilities of institutions and how these rights are protected and responsibilities enforced. For example, a student bill of rights should include information about the student complaint process, tuition refunds, and institutions' obligation to meet quality assurance standards such as maintaining student records, ensuring instructors meet minimum requirements, and developing academic policies and processes. A student bill of rights should also direct students to the oversight body's website for additional information, and explain how students can contact the oversight body directly with any concerns.

¹²² John A. Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008), 10.

¹²³ John A. Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008), 35.

¹²⁴ Private Career Training Institutions Agency, *2008/09 Annual Report*, 11.

Finding and Recommendation

F2 The Private Career Training Institutions Agency has not taken adequate steps to ensure that students are informed of its oversight role and the protections provided to students, including the student complaints process, tuition refunds, and quality assurance standards.

R2 The Ministry of Advanced Education:

- (a) develop a student bill of rights that reflects in plain language the protections provided to students at private career training institutions including the student complaints process, tuition refunds and quality assurance standards
- (b) translate the student bill of rights into those languages spoken by a significant number of international students attending private career training institutions
- (c) require the private career training institutions oversight body to publish the bill of rights and all translated versions on its website
- (d) require private career training institutions to provide to students, and attach as part of the enrolment contract, the student bill of rights in English and any other applicable language it has been translated into
- (e) require private career training institutions to keep a copy of the student bill of rights in a visible location on each campus

Information about an Institution or Program

Students who are considering enrolling at a private career training institution are entitled to expect that the information they receive from the institution about a program is accurate and comprehensive. Institutions may promote their programs through print and web-based advertisements, their own website or institution representatives. These different sources of information can make the provision of accurate and comprehensive information more complicated.

Advertisements and Online Information

A 2007 survey reported that more than half of students in British Columbia (56 per cent) first hear about a program through advertisements or online.¹²⁵ With the increasing use of the internet, it is likely that the number of students who first hear about a program online has only increased since then. A number of private career training institutions post their policies or tuition information online – for example, Pacific Rim College’s website includes the tuition fees for its programs.¹²⁶ However, institutions are not required to post either tuition fees or their policies on their websites.¹²⁷ Many institutions require prospective students to “request information” through a form on the institution’s website, which requires them to submit their contact details.

¹²⁵ R.A. Malatest & Associates Ltd., *Survey of Canadian Career College Students – Phase II: In-School Student Survey* (Montreal: The Canada Millennium Scholarship Foundation, 2008), 30.

¹²⁶ Pacific Rim College <<http://www.pacificrimcollege.com/>>.

¹²⁷ Information about tuition fees is, however, available on PCTIA’s website, if students are aware of PCTIA and know how to find that information.

PCTIA's bylaws regulate advertising by institutions by prohibiting any advertising or representations that are "false, deceptive or misleading."¹²⁸ The bylaws state that advertising must be accurate and factual and cannot guarantee employment, income or work permit eligibility.¹²⁹ In reviewing an institution's continuing compliance with these requirements, PCTIA may request copies of an institution's advertising materials, including translations of documents not published in English.¹³⁰ In our review of institution files, we found examples of institutions being required to change the way they were promoting programs because they did not comply with the requirements.¹³¹ For example, PCTIA required one institution to stop advertising that 100 per cent of its students had passed a licensing exam when this was not the case. Another institution was required to change advertising that suggested students were guaranteed a job upon completion of a program.

International Consultants and Agencies

In some cases, institutions who enrol international students may work with overseas consultants or agencies to recruit students. In the recruitment process, these agents may make representations to students about the institution and the content or outcome of a program. PCTIA's bylaws require an institution to ensure that any person working on its behalf to recruit students communicates "current and accurate information" about courses, programs, services, tuition, terms and operating policies, but they do not set out how institutions are expected to monitor such communications.¹³² This may be difficult if an agent is working in a different country or language.

In our investigation, we reviewed a complaint in a PCTIA file from an international student who had submitted documents from an immigration consultant as part of her complaint. The student alleged that the institution had failed to provide a promised work experience placement. The consultant's documents stated that the student had been "pre-selected" for a diploma program at a private career training institution with a work experience component. The consultant said of this "learn and work" program: "many of the students in the past have gone on to building [sic] wonderful careers here in Canada ... we only work with institutions that provide programs where there is a paid work experience component to it so students are guaranteed employment upon registration." The consultant promised this student a guaranteed salary of up to \$40,000 during the second year of the program.¹³³ This turned out not to be accurate. We also reviewed the PCTIA file of a closed institution that had used an overseas immigration consultant to recruit students. In one instance, the consultant provided information to students about a program that the institution was not providing, and was ultimately unable to adequately deliver.¹³⁴

¹²⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 34.1. Such prohibitions existed in previous regulatory frameworks as well: see Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014 for a history of the regulation of private career training institutions in British Columbia.

¹²⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 34.3 and 34.4.

¹³⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 34.7.

¹³¹ PCTIA required these changes by imposing conditions added to the institutions' registration or accreditation. See the Enforcement section of this report for a discussion of the enforcement tools available to PCTIA.

¹³² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 28.1.3.

¹³³ The student's complaint that she had been misled by the institution was successful and she was refunded the tuition she had paid. PCTIA suspended and then cancelled the institution's registration.

¹³⁴ PCTIA agreed that the programs offered to the students were not registered and therefore the institution was not authorized to provide them. Despite this, PCTIA concluded that the institution had fulfilled its obligation to provide instruction for a year and did not authorize a refund of the students' tuition.

Students, in particular those coming from overseas, may be relying on these kinds of representations to their detriment in deciding which institution to attend.

Student Enrolment Contracts

It is important to regulate advertising and pre-enrolment representations by institutions and their representatives. However, even more important is the enrolment contract that sets out the terms of a student's relationship with an institution. This contract is a binding legal document and must therefore be clear and unambiguous as to what the program will and will not provide. The imbalance of power that exists between students and institutions is exacerbated by language and educational barriers. Students are not told to seek legal advice before signing an enrolment contract, and place a significant amount of trust in the information they receive from the institution.

As contracts can contain sometimes complex and confusing terms and conditions, students can have difficulty determining quickly and easily what they are agreeing to. PCTIA told us that when it monitors institutions, it commonly finds inconsistencies between contracts and other information about a program.

When we started our investigation, student enrolment contracts had to contain information such as the cost of tuition, any certificate or diploma resulting from successful completion, basic information about the institution and program, identifying information about the student and PCTIA contact information.¹³⁵

In March 2014, a ministerial order resulted in amendments to the bylaws regarding student contracts.¹³⁶ Some of the new requirements include:

- if the program is designed to lead to employment in a field requiring registration or licensing with a governing body, the contract must note this and list the requirements for license or registration eligibility¹³⁷
- if a student's first language is not English and he or she is unable to understand the contract, a representative from the institution must ensure that its terms and conditions and withdrawal, dismissal and refund policies are clearly explained in the student's primary language¹³⁸
- a student enrolment contract must be written in plain language that is easily understood by the student¹³⁹
- the institution must provide PCTIA with a copy of any contracts not written in English or French¹⁴⁰
- all contracts must be written in a font size of 10 points or larger¹⁴¹

While the new bylaws improve both the information contained in these contracts and the way the information is presented, some concerns remain. One concern is the

¹³⁵ Private Career Training Institutions Agency, revised bylaw, 25 May 2012, Part G, s. 37.2. The bylaws have required this information to be included in student contracts since 2009. Prior to 2009, basic information about the institution, the program, the cost of tuition and the student's contact information was included in contracts. However, contracts did not have to include any credential resulting from successful completion of the program or PCTIA's contact information: Private Career Training Institutions Agency, revised bylaw, December 2006, Part IX, s. B.

¹³⁶ Ministerial Order, 55, 6 March 2014, s. 10–11 and 22–23.

¹³⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 37.2.3.7. This was in addition to the earlier requirement that the contract include the certificate or diploma resulting from successful completion of the program.

¹³⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 37.2.10.6.

¹³⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 37.2.10.6.

¹⁴⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 37.2.10.6.

¹⁴¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 37.2.10.5.

All students benefit from accurate and clear enrolment contracts and information.

requirement that an institution representative explain a contract to a student who is otherwise unable to understand it.

PCTIA notified all institutions in writing of the new bylaws on March 6, 2014, the day after they were amended. In this notice, PCTIA outlined each of the changes related to student contracts.

Prior to the March 2014 ministerial order, institutions had to be able to demonstrate that, before entering into an enrolment contract, they had provided students with copies of relevant policies, including the dispute resolution and grade appeal policy and the dismissal policy. This requirement did not apply to short-duration programs with less than 40 hours of training or instruction.¹⁴² After the March 2014 ministerial order, institutions were required to provide students with copies of policies on tuition refunds, withdrawals, credit transfer, language proficiency assessments, work experience policies, and prior learning assessments.¹⁴³ Institutions now have to provide policies to students before entering into any agreement with them or issuing a letter of acceptance.¹⁴⁴

Analysis

The March 2014 changes to enrolment contract requirements are positive steps that should help students to have clear and current information about a program. However, further steps need to be taken to adequately protect students, in particular, international students, from inaccurate information.

The requirement that an institution representative explain a contract's terms to a student who does not have an adequate grasp of English leaves those students vulnerable to incorrect or inconsistent verbal representations unless the explanation given is in some way recorded. The ministry should more clearly establish in regulation that institutions are responsible for all representations made by recruiters working on their behalf, including those overseas or working in languages other than English. Audio or visual recording of verbal representations should be encouraged.

Ensuring both clarity in the language of the contract and that students have an accurate understanding of what is being offered by the institution is especially important in the context of international students. Language barriers can make explanations difficult, and distances can make it harder for students to adequately research an institution before making a large financial commitment. It is important for the ministry to ensure that institutions confirm in the body of the contract that the student signing it has adequate knowledge of the language that the contract was written in, particularly where English is not the student's first language. Language barriers can also be addressed by translating some basic program information in enrolment contracts into the languages most spoken by international students in British Columbia, so that students whose English is limited do not have to rely on institution representatives to explain the contract, including program information, to them.

All students, not just those from overseas, benefit from accurate and clear enrolment contracts and information. In Ontario, the Ministry of Training, Colleges and

¹⁴² Private Career Training Institutions Agency, revised bylaw, 25 May 2012, Part F, s. 26.6. There were no similar requirements for institutions offering short-duration programs.

¹⁴³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 26.6. Different requirements apply to short-duration programs: institutions are not required to provide students in short-duration programs with a Credit Transfer Policy, Prior Learning Assessment Policy or Work Experience Policy.

¹⁴⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 26.6 and 26.7.

Universities (which regulates private career colleges in that province) has developed a “disclaimer” for some programs that must be signed by students before their program starts. One disclaimer explains that the program has been approved by the ministry and outlines in detail what is required to become employed in the area once the program is completed.¹⁴⁵ Another disclaimer lists program limitations and what the program may not qualify the student to do.¹⁴⁶

The oversight body in British Columbia could better protect students by developing a short document similar to these disclaimers that can be incorporated into all student contracts and which can be translated into the languages most spoken by international students. This document, and its translated versions, should clearly state:

- the name of the program and when it was approved
- that completion of the program does not guarantee a student employment or, if the student is international, the ability to remain in Canada
- the credential that will be granted upon completion, and whether this will satisfy the requirements of any professional governing body if the program leads to an occupational or professional designation
- any program admission requirements that are required by the applicable professional governing body
- if work experience is a required part of the program, how such work experience will be arranged
- if the program will not meet any applicable governing body requirements, what additional process may be required for licensing or registration

Students are also better protected if institutions’ internal policies and fees are publicly available. Institutions are currently required to provide copies of relevant policies and information about fees before entering into a contract with a student. Such documents can often become separated, lost or misplaced. Requiring institutions to publish policies on their websites would provide further protection for students by allowing them to refer to the most recent version of the policy whenever it is needed. It would also make it easier for institutions to comply with the requirement that they provide copies of policies to students before entering into an enrolment contract.

Finding and Recommendations

- F3** The Private Career Training Institutions Agency has not established adequate requirements to protect students from inaccurate or misleading information about institutions and programs.
- R3** The Ministry of Advanced Education establish in regulation that private career training institutions are responsible for all representations made to current or prospective students by or on behalf of the institutions, including representations made outside Canada or in languages other than English.
- R4** The Ministry of Advanced Education require all private career training institutions to publish their current internal policies and tuition fee information on their websites.

¹⁴⁵ For an example, see Ministry of Training, Colleges and Universities, “Student Enrolment in Hairstyling Disclaimer” <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/directive10.pdf>>.

¹⁴⁶ Ministry of Training, Colleges and Universities, “Disclaimer For Students in Law Enforcement Related Programs” <<http://www.tcu.gov.on.ca/eng/general/SecurityGuards2010.pdf>>.

R5 The Ministry of Advanced Education:

- (a) develop a document for each program offered by private career training institutions, which provides relevant information about that program and any credential that will be obtained by students who enrol in that program
- (b) translate each document into those languages spoken by a significant number of international students
- (c) require private career training institutions to provide the document to students enrolling in a program in English and any other applicable language the document has been translated into
- (d) require private career training institutions to attach the document as part of the enrolment contract



The Ministry of Advanced Education publishes a guide for prospective post-secondary students listing some questions they may wish to ask an institution they are considering attending.¹⁴⁷ According to this guide, which is available only in English, an informed student should, before enrolling, ask an institution questions such as:

- Will my potential employers recognize this training?
- Does the appropriate governing body or professional association approve the program?
- Does the program have the proper consents, approvals or accreditations?
- Will I have reasonable access to necessary equipment and resources (is there enough for each student, and do they measure up to what industry uses)?
- Do instructors have the necessary qualifications, licenses or credentials?

The Private Career Training Institutions Agency (PCTIA) has a similar guide, called “How to Choose a Private Career Training School,” which is available on its website.¹⁴⁸ Since 2013, this guide has contained a checklist of questions for prospective students to ask, including whether the institution or program is recognized in the industry, whether the equipment is up-to-date and sufficient, and whether the facilities are adequate.

While these guides are a well-intentioned effort to assist students in choosing the right institution, the above questions are not ones a prospective student should have to ask, and most students will not have the experience or knowledge to effectively evaluate any response. PCTIA strongly suggests that a prospective student or someone they know and trust should visit and assess institutions before enrolling. For many students, such as an international student or a single parent juggling work and child care, it may simply not be feasible to visit an institution before deciding whether to enrol.

An effective oversight system would require an institution to answer these questions before students ask. All students, regardless of which post-secondary institution they choose to attend, should be confident that they will have adequate and appropriate equipment, that the institution and programs have received all the necessary approvals, and that courses will be taught by qualified instructors. It is the responsibility of the private career training institutions oversight body to confirm, through an active and effective monitoring process that includes site visits as a primary monitoring tool, that private career training institutions meet these standards.

Under the current legislation, PCTIA is responsible for ensuring that only registered institutions provide career training, and that these registered institutions are meeting the basic education standards and only offering approved programs. PCTIA also decides whether an institution is eligible for accreditation and monitors existing accredited institutions. Regular and effective monitoring of all institutions benefits students and protects the reputation of well-run private career training institutions by identifying poorly run institutions and requiring them to address concerns before students are harmed.

¹⁴⁷ Ministry of Advanced Education, “Prospective Students: Questions to Ask” <<http://www.aved.gov.bc.ca/informedstudent/docs/ProspectiveStudents02.pdf>>.

¹⁴⁸ Private Career Training Institutions Agency, “How To Choose A Private Career Training School” <<http://www.pctia.bc.ca/students/how-to-choose-a-school>>.



It is the responsibility of the private career training institutions oversight body to confirm, through an active and effective monitoring process, that private career training institutions meet these standards.

Unregistered institutions pose a significant risk to students because they are not subject to any standards and students attending these institutions cannot make a claim for a tuition refund from the Student Training Completion Fund.

According to the Ministry of Advanced Education, “regular on-site visits and reviews of institutions are conducted to ensure they are meeting basic education standards, and provide consumer protection to students.”¹⁴⁹ Our investigation found that while in some respects PCTIA has an active monitoring program, gaps in that monitoring process undermine the student protection PCTIA is legislatively mandated to provide. British Columbia is one of only two provinces to distinguish between registered and accredited institutions and impose different requirements on each.¹⁵⁰ Accredited institutions are subject to additional monitoring requirements. The monitoring requirements for accredited institutions can provide additional protection to students, but at those institutions only.

In this section of the report, we focus on how the Ministry of Advanced Education can ensure that the private career training institutions oversight body provides a consistent level of oversight of all institutions, not just for those that choose to pursue accreditation. We focus first on registration and accreditation requirements and processes; second on program approval; and third on ongoing monitoring through reporting and site visits. In each part of this section, we highlight opportunities for the oversight body to notify students and the public of its activities and to meet with students as part of its monitoring.

Unregistered Institutions

Private career training institutions must register with the private career training institutions oversight body, which is currently the Private Career Training Institutions Agency (PCTIA). Institutions not registered with PCTIA cannot offer career training if the cost of tuition is \$1,000 or more and instructional time is 40 hours or more.¹⁵¹ Under the *Private Career Training Institutions Act*, it is an offence for any person or organization to offer to provide career training unless the person is a registered institution.¹⁵² PCTIA can apply to the Supreme Court of British Columbia for an injunction restraining an unregistered institution from contravening the Act (see the Enforcement section of this report for more information). Despite the requirement to register and the potential consequences, there are still institutions that operate (intentionally or not) without being registered with PCTIA. Unregistered institutions pose a significant risk to students because they are not subject to any standards and students attending these institutions cannot make a claim for a tuition refund from the Student Training Completion Fund.¹⁵³

PCTIA staff search for institutions that provide career training without being properly registered. When staff receive information about an institution operating without registration, their practice is to review all publicly available material about the institution, including advertising. PCTIA staff may also contact the unregistered institution either as a representative of PCTIA or by posing as a prospective student in order to gather additional information.

¹⁴⁹ Ministry of Advanced Education, “FACTSHEET: Private post-secondary institutions in B.C.,” 12 August 2014 <<http://www.newsroom.gov.bc.ca/ministries/advanced-education/factsheets/factsheet-private-post-secondary-institutions-in-bc.html>>.

¹⁵⁰ The only other province to make such a distinction is Quebec, where private post-secondary institutions may be accredited “for purposes of subsidies”: *An Act Respecting Private Education*, C.Q.L.R., c. E-9-1, s. 77.

¹⁵¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 7; *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 3; Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 14.1.

¹⁵² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 23(1).

¹⁵³ See the Complaints section of this report for more information on student claims against the STCF.

We found that PCTIA did not have a clearly articulated or consistent policy and practice for tracking unregistered institutions and enforcing registration requirements. Our review of PCTIA's records indicated that between September 2009 and December 2013, PCTIA communicated with 287 institutions that it initially thought fell within its jurisdiction. PCTIA found that many of these institutions were exempt from registration requirements because their programs fell below the 40 hour and \$1,000 tuition threshold for regulation. Other institutions offered programs, such as professional development courses, which were not classified as career training. Some institutions informed PCTIA that they were no longer operating or that they did not offer career training programs in British Columbia. In other cases, once contacted by PCTIA, unregistered institutions changed their career training programs to decrease the instruction time or tuition costs to below the thresholds to avoid regulation by PCTIA. It was not always clear how PCTIA confirmed or followed up on the accuracy of information about whether an institution should be regulated by PCTIA. The records we reviewed indicated that 34 institutions either registered or took steps toward registering with PCTIA, but it was unclear how many completed the registration process.

Once PCTIA confirms that an institution appears to be offering career training without being registered, the agency sends the institution a series of three letters. We reviewed the files of several unregistered institutions to determine how PCTIA deals with unregistered institutions in practice.

The first letter, which is sent by a PCTIA staff member, includes:

- a reference to the registration requirement
- a referral to PCTIA's website for registration instructions
- the statement in bold: "You must immediately cease providing or offering to provide career training and are prohibited from doing so until such time as your institution is properly registered with the Agency"

PCTIA's first letter template does not include a deadline, but based on our review of its files, PCTIA establishes a deadline of between two and three weeks for the institution to submit a registration application.

The second letter, which is sent by the registrar, cites the legislation again. It further notifies the institution that it is an offence to breach the registration requirements, and that PCTIA can seek an injunction against the unregistered institution. The second letter template establishes a deadline of one week for the institution to submit a new registration application package. In the files that we reviewed, however, PCTIA's second letters provided the institutions with an additional one to two weeks to submit a registration application.

The third letter, this time from PCTIA's legal counsel, demands that the institution cease and desist providing and offering to provide career training. This demand letter again references the legal remedies available to PCTIA. In the letters we reviewed, the unregistered institution was given a third deadline of one day to one week from the date of the letter to register or cease operating before PCTIA takes legal action.

No person or institution has ever been charged with an offence under the *Private Career Training Institutions Act*. PCTIA has in the 10 years it has operated sought injunctions on 10 occasions to prevent unregistered institutions from providing or offering to provide career training, or from advertising that they are registered.

One file we reviewed illustrates our concerns with PCTIA's process for dealing with unregistered institutions.

File Review Summary

A student contacted PCTIA in March 2013 expressing her concern that the institution she was attending was not registered. The student said she had paid over \$12,000 tuition up front for a certificate program, but then had withdrawn partway through after becoming dissatisfied. After reviewing the information from the student, PCTIA determined that the institution should be registered. It sent demand letters to the institution on April 17, May 22, and July 10, 2013, and filed a petition in the Supreme Court of British Columbia seeking an injunction on August 2, 2013. No injunction was granted, however. PCTIA's demand letters were ultimately successful and the institution registered with PCTIA on February 25, 2014. Even though 11 months passed between the time PCTIA became aware of the institution and the institution finally registered, there was no indication on the file that PCTIA had notified students that the institution was unregistered.

Moreover, when we reviewed PCTIA's file, we found that another student had made a similar complaint to PCTIA about the institution five years earlier, in 2008. In response, PCTIA's registrar sent a letter to the student informing her that he was of the opinion the unregistered institution fell under PCTIA's jurisdiction and was committing an offence under the Act by providing career training. Despite the registrar's opinion, there was no record in the file of PCTIA taking any steps to require the institution to register or to notify other students that the institution was not legally authorized to provide career training. In 2010 and 2011, PCTIA inquired into whether this institution should be registered. It determined that because the program appeared to be offered only to professionals, it did not need to be registered, but asked the institution to let PCTIA know if anything changed. Nothing further happened until the student complained to PCTIA in March 2013.

Currently, PCTIA does not notify students when it becomes aware of an institution that should be registered but is not.

Analysis

From a student protection perspective, registration with the private career training institutions oversight body is an indispensable first step because it means the institution has been required to meet basic education standards and is subject to ongoing monitoring. In addition, students at registered institutions have access to the Student Training Completion Fund, which allows for tuition refunds in case of institution closure or a student being misled.

The information we reviewed in our investigation showed that PCTIA may identify institutions offering training that could fall under the *Private Career Training Institutions Act*. The records we reviewed showed that PCTIA's follow-up with unregistered institutions is not always consistent.

PCTIA has no clear policy or process for identifying, tracking and investigating unregistered institutions. Having policies and procedures for dealing in a prompt manner with unregistered institutions would promote consistency and better protection for students.

Furthermore, clear, written policy and procedures should be strengthened by a regulatory framework that establishes specific timelines for dealing with unregistered institutions and a requirement for the oversight body to notify students attending these institutions. Currently, however, there are no legislated timelines within which PCTIA must act once it becomes aware of an unregistered

From a student protection perspective, registration with the private career training institutions oversight body is an indispensable first step.

institution. This means an unregistered institution may take a significant amount of time to become compliant, which increases the risk to students. The Ministry of Advanced Education needs to establish clear and appropriate time limits within which institutions must register.

After identifying and seeking registration of unregistered institutions, PCTIA does not immediately notify current students attending those institutions – such as the student in the example above – of the institution’s status. Under the Act, inspectors appointed by the registrar can obtain records for the purpose of determining whether a person has failed to comply with the legislation.¹⁵⁴ PCTIA could use this power to obtain student contact and contract information from an unregistered institution and directly contact any current or former students.

When an unregistered institution does not adequately respond to the oversight body or does not begin the registration process in a timely way, it is not unreasonable to expect the oversight body to promptly take further steps to notify the public as well as former, current and prospective students of an institution’s illegal operation. This could be accomplished by posting a notice on the oversight body’s website, posting a notice at the physical location of the unregistered institution, and making other public announcements through various media, such as social media.

Findings and Recommendations

- F4** The Private Career Training Institutions Agency does not have a clear, written policy or procedures for identifying, tracking or monitoring unregistered institutions that it believes may be providing or offering to provide private career training or instruction contrary to the *Private Career Training Institutions Act*.
- R6** The Ministry of Advanced Education require that the private career training institutions oversight body develop and implement a clear, written policy and procedures for identifying, tracking and monitoring unregistered institutions that the body believes may be providing or offering to provide private career training or instruction contrary to the relevant legislation.
- F5** The *Private Career Training Institutions Act* does not require the Private Career Training Institutions Agency (PCTIA) to notify students attending unregistered institutions of the status of the institution and does not establish timelines within which PCTIA must require unregistered institutions to begin the registration process.
- R7** The Ministry of Advanced Education establish in regulation that:
 - (a) when the private career training institutions oversight body determines that an unregistered institution needs to be registered, it immediately require that institution to begin the registration process
 - (b) if an institution does not begin the registration process within 30 days of the oversight body determining that an unregistered institution needs to be registered:
 - (i) the oversight body must immediately seek an injunction to stop the institution from operating
 - (ii) the oversight body must publish a notice on its website identifying the institution and its unregistered status

¹⁵⁴ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 12(2).

- R8** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body, once it determines that an unregistered institution needs to be registered, immediately and directly notifies students that the institution is unregistered and that students should pay no further fees until it is registered.

Registration

Currently, any private institution offering career training with tuition greater than or equal to \$1,000 and with training or instruction time greater than or equal to 40 hours, must register with PCTIA.¹⁵⁵ If an institution offers any program that requires it to register with PCTIA, then all of the institution's career-related training programs fall under PCTIA's regulation regardless of whether they exceed the cost or time threshold.¹⁵⁶

Under the *Private Career Training Institutions Act*, the PCTIA registrar must grant registration to each institution that applies, satisfies the registrar that the institution meets the registration requirements under the Act, and pays the required fees.¹⁵⁷ The registrar may, however, refuse registration if the registrar considers it to be in the public interest. Refusal may be on the basis of the institution's financial standing, or because of the past conduct of the institution, its officers or employees.¹⁵⁸

The registration process is set out in PCTIA's bylaws:

- The owner, a person designated as the institution's senior education administrator, or an appropriate management team representative must attend a new registration workshop that discusses standards and requirements, forms and policies, and ongoing reporting requirements.¹⁵⁹
- Within six months of attending the workshop, the institution must submit an application for registration, including all application forms, all required attachments, and a non-refundable registration application fee of \$2,450 for a main campus and \$1,000 for a branch campus.¹⁶⁰ The bylaws do not indicate whether PCTIA can accept an application for registration prior to completion of the workshop.
- The institution must provide an opportunity for a PCTIA representative to make a site visit.¹⁶¹ The bylaws do not specify when the site visit may occur.

¹⁵⁵ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 7(1); *Private Career Training Institutions Regulation*, B.C. Reg. 350/2008, s. 3.

¹⁵⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 14.2.

¹⁵⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(1).

¹⁵⁸ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(3). This provision applies even where a new institution's officers or employees were affiliated with a previously closed or non-compliant institution.

¹⁵⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 17.1. As of December 3, 2014, new registration workshops were being offered in-person on February 19 and April 15, 2015, and by webinar on January 21 and March 19, 2015. The bylaws make no provision for what is required if no such workshop is scheduled.

¹⁶⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 17.4; Part J, s. 46.4.1.

¹⁶¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 17.6.

The new institution applying for registration must provide PCTIA with information about the programs it intends to offer, including:¹⁶²

- a description of the methods the institution will use to ensure all programs have clearly stated educational objectives and up-to-date curriculum supported by appropriate instructional materials and technology
- a list of programs offered by the institution requiring approval of a governing body of an occupation or profession and evidence of that approval (if applicable)
- a description of ownership or user rights for all curriculum resources
- for any program delivery undertaken in partnership with, or on behalf of the institution by another organization, an explanation of how the institution will ensure the organization meets PCTIA's requirements. For example, one institution we visited subcontracted with another party who provided the training and instruction to students in a particular program.

If a registration application is denied, or if it expires because it has not been completed within six months from the original date of application, the bylaws prohibit the institution from reapplying for registration for at least 12 months.¹⁶³ The rationale for this restriction is not explained in the bylaws.

By applying for and receiving registration, an institution, according to PCTIA's bylaws, "accepts the obligation to demonstrate continuous compliance with all requirements of registration."¹⁶⁴

We asked PCTIA about the number of applications for registration it receives, approves and denies annually. In PCTIA's initial response to us in June 2014, it could not provide us with information on the number of applications carried over to 2009/10 or the number of applications not approved in any year. This led us to conclude that PCTIA either did not track or did not reliably track certain important information. After receiving our draft report in December 2014, PCTIA then conducted a manual review of its applications for registration files and provided us with the numbers set out in Table 1.

While PCTIA was able to find the information in Table 1 through a manual search of its files, it is clear that it did not track, as a matter of course, the outcome of all applications. PCTIA tracks the number of approved applications, but does not track the number of applications not approved. Some non-approved applications made in a fiscal year are carried over into the next, or they may be denied, withdrawn or expire. We would expect PCTIA to track the number of applications not approved and the reasons why, in order to demonstrate it is performing its evaluation function effectively. This would not only inform improvements to the registration process but could also assist future applicants. PCTIA's inability to provide this information without a manual search of its files highlighted inadequacies in the information systems it has historically used.

¹⁶² See "Existing Program Approval Requirements" later in this section for more information on the program approval process.

¹⁶³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 17.9.

¹⁶⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 15.1.

Table 1: Applications for Registration

Fiscal year	2009/10	2010/11	2011/12	2012/13	2013/14
Number of applications for PCTIA registration	27	22	29	24	30
Number of applications carried over from previous fiscal year	16*	11	12	13	12
Total number of applications	43*	33	41	37	42
Number of applications approved	27	21	24	16	26
Number of applications denied [†]	0	0	0	0	0
Number of applications expired [‡]	0	0	2	6	0
Number of applications withdrawn [†]	5	0	2	3	3
Number of applications carried over to next fiscal year	11	12	13	12	13

* PCTIA does not track this data and therefore was not able to provide it to us upon request. After reviewing our report, however, PCTIA conducted a manual review of its files and provided this information.

† PCTIA did not track this data until May 2014 and was not able to tell us how registration applications were dealt with unless they were approved or carried over into the next fiscal year. After reviewing our report, however, PCTIA conducted a manual search of its files and provided this information on the number of applications denied, expired, or withdrawn.

‡ PCTIA's bylaws state that an application for registration will expire six months from the original date of application if the institution has not successfully completed all the requirements of registration. The registrar has discretion to grant an extension and application fees will not be refunded if an application expires (Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 17.8).

Pre-Registration Site Visits

There is no requirement under the Act, the Regulation or the bylaws requiring PCTIA to visit an institution applying for registration. However, PCTIA has stated that its usual practice is to conduct a site visit during the registration process.

PCTIA told us that most new institutions are located in urban areas where it is relatively easy to visit before registration. If an applicant institution is located in a more remote area, however, PCTIA may rely on photographs and the paper application for information, instead of conducting a pre-registration site visit.

As with the information in Table 1, PCTIA was initially not able to tell us whether it had conducted pre-registration site visits to all applicant institutions, including those whose applications were not approved. After reviewing our draft report, PCTIA confirmed that it had only conducted pre-registration site visits in cases where it approved the application for registration. Table 2 sets out the number of pre-registration site visits PCTIA has conducted in the last five fiscal years.

Table 2: Pre-Registration Site Visits by PCTIA

Fiscal year	Total number of registration applications approved*	Number of institutions PCTIA visited before registration	Number of institutions PCTIA did not visit before registration
2009/10	27	7	20
2010/11	21	8	13
2011/12	24	10	14
2012/13	16	15	1
2013/14	26	25	1

* Includes both new applications and applications carried over from previous fiscal year.

Table 2 shows that over the past two fiscal years, PCTIA has conducted pre-registration site visits to all but two institutions. This is a positive step, and demonstrates that it currently has the capacity to conduct such monitoring. It is also a reversal of the pattern from 2009-2012, when a majority (65 per cent) of new institutions were not subject to a pre-registration site visit.

Where pre-registration site visits do occur, they are generally completed 1 to 2 months before PCTIA approves the institution's application. However, we noted one instance where PCTIA conducted a pre-registration site visit 31 months before approving the application.

Site Visit Checklists

PCTIA uses checklists to record information during site visits. Starting April 1, 2014, PCTIA began differentiating between basic and comprehensive site visits and now uses a different checklist for each.

Since April 1, 2014, PCTIA has used the Compliance Report Basic checklist for its pre-registration site visits.¹⁶⁵ The checklist includes items to be reviewed before the site visit, such as internet advertising. During the site visit, PCTIA reviews the institution's organization, student records, instructor records, academic policies and student services, educational programs, objectives, curricula and materials. Under each category, the form lists specific items to be reviewed with yes or no checkboxes. The form has space for PCTIA staff to record additional notes. The Compliance Report Basic checklist contains questions, such as those related to student records, which do not apply to an institution that has not yet registered and therefore does not have students.

The Compliance Report Basic checklist also does not include a list or request for comments on the state of the applicant institution's facilities, equipment or other resources. While there is room for "additional notes on discussions and observations," there is no question that specifically draws the monitor's attention to these aspects of the applicant institution. The condition of the institution's facility, including whether the space is adequate and classrooms are appropriate, are important factors PCTIA should consider before registration. Similarly, PCTIA should also review, before registration, whether the applicant institution has the appropriate quantity and quality of equipment and resources, such as textbooks, computers, medical equipment, heavy machinery or aircraft.

Previously, PCTIA collected information about the state of an institution's facilities and resources in its Compliance Report Pre-Registration checklist (the last version is dated December 11, 2013). PCTIA continues to collect this information in its

¹⁶⁵ Private Career Training Institutions Agency, "Compliance Report Basic" <[http://www.pctia.bc.ca/resources/Compliance%20Report%20Basic%20Template%20INS_190_025\(1\).docx](http://www.pctia.bc.ca/resources/Compliance%20Report%20Basic%20Template%20INS_190_025(1).docx)>.

Compliance Report Comprehensive checklist. However, since the Compliance Report Pre-Registration checklist is no longer used and the Compliance Report Comprehensive checklist is not used in the registration process, information about an institution's facilities and resources is not gathered during pre-registration site visits. With the new checklists, PCTIA has taken a step backward in the thoroughness and suitability of the checklist it uses for pre-registration site visits.

Analysis

To adequately protect students, any problems with an institution's facilities, equipment or teaching resources must be addressed before students are in attendance. The best way for an oversight body to ensure this happens is through a site visit. The site visit allows the oversight body to determine whether there are any deficiencies and to require the institution to address them before operations begin. Issues related to facilities or equipment may simply not be apparent from a review of photographs and a paper application. The site visit also provides a further opportunity for PCTIA to provide in-person information about its role to the operator and staff. PCTIA currently requires each applicant institution to send one representative to attend a pre-registration workshop, but this takes place at PCTIA's facility, not at the institution.

The checklist currently used for pre-registration site visits is not an appropriate tool as it does not provide for an assessment of an applicant institution's facilities, equipment and other resources. The checklist also contains sections on student-related matters, which are impossible to effectively evaluate in institutions that do not yet have any enrolled students. A checklist is only a valuable tool if it directs the monitor to review relevant, obtainable information. In pre-registration site visits, the oversight body should focus on reviewing the physical condition of the institution and its organizational ability to accept and provide training and instruction to students. The oversight body should therefore use a checklist that includes an evaluation of an institution's facilities, equipment and resources. This evaluation should then inform the decision whether to approve a registration application.

Currently, PCTIA can decide to visit some, but not all, applicant institutions because a site visit is not a requirement of registration. This means, for example, that PCTIA can choose to conduct site visits at institutions in more convenient locations. Institutions in more remote areas may not have been subjected to the same rigour in the registration application process and PCTIA will not have confirmed that the facilities, equipment and resources are adequate.

PCTIA has identified pre-registration site visits as an important compliance and student protection tool. However, without a legislated requirement, there is no guarantee site visits will take place. The Ministry of Advanced Education should establish a legislated requirement for any private career training institutions oversight body to conduct pre-registration site visits at all applicant institutions and should ensure that the evaluation tool used for such visits is appropriate and includes a review of only relevant and obtainable information.

Without a legislated requirement, there is no guarantee site visits will take place.

Finding and Recommendation

F6 The Private Career Training Institutions Agency is not required to and has not conducted pre-registration site visits to all institutions applying for registration.

R9 The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:

- (a) conducts a site visit to each institution applying for registration before that institution's application is approved
- (b) uses an evaluation tool during pre-registration site visits that allows for an effective assessment of facilities, equipment and resources, and that assists in the evaluation of an institution's registration application
- (c) develops a reliable process to track pre-registration site visits and their results and identify any that have not occurred

Post-Registration Site Visits

Site visits soon after registration are not required under the *Private Career Training Institutions Act*, the Regulation or the bylaws. However, PCTIA itself considers site visits within six months after registration to be a valuable assessment tool. PCTIA has the authority to initiate these visits to determine whether a newly registered institution is in compliance with the legislation, the Regulation and the bylaws.¹⁶⁶

Since April 2014, PCTIA has used the Compliance Report Comprehensive checklist for its six-month site visits.¹⁶⁷ Information collected on this checklist includes details about student records and general safety policies, and whether an institution has considered and implemented PCTIA's recommendations and requirements. Although failing to cooperate with a compliance audit or on-site visit may result in suspension of registration or accreditation, the bylaws do not specify what happens if an institution does not implement PCTIA's recommendations (see the Enforcement section of this report for more details). The Compliance Report Comprehensive checklist also includes a section in which PCTIA is required to assess the institution's facilities and equipment.

Although PCTIA told us that it tries to conduct site visits within six months after registration, the information we obtained in our investigation showed that these visits do not always occur. As Table 3 shows, the majority of institutions do not receive a site visit from PCTIA within six months of registration.

Table 3: Site Visits within Six Months of Registration

Fiscal year	Number (percentage) of institutions visited within six months of registration*	Number (percentage) of institutions not visited within six months of registration*
2009/10	not tracked	not tracked
2010/11	not tracked	not tracked
2011/12	9 (38%)	15 (63%)
2012/13	3 (19%)	13 (81%)
2013/14	3 (12%)	23 (88%)

* PCTIA did not track the number of institutions it visited within the first six months of registration until the 2011/12 fiscal year.

¹⁶⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.6. The bylaws have provided PCTIA with the authority to initiate site visits to determine compliance since May 25, 2012. The bylaw prior to 2012 stated: "The Agency reserves the right to initiate compliance audits and/or special on-site visits because of unusual circumstances or failure by an institution to meet its obligations to the Agency" (Private Career Training Institutions Agency, revised bylaw, 4 February 2010, Part X, s. 51(1)(xvii)). The 2009 bylaws granted PCTIA the authority to conduct regular site visits and to appoint investigators to ensure compliance with the legislation and bylaws. In the 2006 bylaws, PCTIA's power to investigate accredited institutions was limited to situations where PCTIA had reasons to suspect non-compliance due to information provided in annual reports or from student or public complaints.

¹⁶⁷ Private Career Training Institutions Agency, "Compliance Report Comprehensive" <[http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026\(1\).docx](http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026(1).docx)>.

The numbers in Table 3 reflect whether PCTIA conducted a site visit within six months of the date PCTIA approved an institution's registration application. This approval date is when institutions can begin advertising their programs and accepting students.

For administrative purposes, however, PCTIA determines when an institution is due for its six-month post-registration site visit by using the "effective date of registration," which is usually the first day of the month closest to the approval date. PCTIA defines any site visit that occurs in less than seven months from the effective date of registration as a six month site visit. For example, PCTIA approved the registration of one institution on December 23, 2013, but did not conduct the six-month post-registration site visit until July 31, 2014.

Conducting site visits within six months after an institution is registered allows compliance problems to be identified and addressed at an early date. This benefits not only students but can also benefit other institutions that pay into the Student Training Completion Fund (STCF) by identifying institutions that are not providing a quality education. As the following example demonstrates, delaying site visits may postpone the discovery of compliance issues, with potentially significant repercussions for the STCF.

Post-Registration Site Visits in Practice

The following example from our review of one of PCTIA's files highlights the types of issues that can be caught in post-registration site visits.

File Review Summary

On March 1, 2012, PCTIA approved the registration of an institution that planned to offer a Post-Diploma Business Management program and a Post-Diploma in Health and Social Care Management program, both of which included an integral work experience (co-op) component. Tuition for each of the programs was \$17,450 for international students. PCTIA staff raised questions about co-op placements with the institution during the program approval process. However, PCTIA was satisfied with the institution's written response and the programs were approved by PCTIA by July 31, 2012. The 21 students who enrolled in the Health and Social Care Management program and the three students in the Business Management program were all international students from outside Canada.

During the application process, PCTIA questioned who would be responsible for finding co-op placements and what would occur if co-op placements could not be found. Instead of denying the institution's application to offer these programs, PCTIA accepted written responses from the institution explaining how it would address the agency's concerns. PCTIA also received two letters from prospective co-op hosts stating they would consider supporting the institution's students in their work experience. There was no indication in the records that PCTIA conducted any further follow-up before approving the programs.

One of the conditions of the institution's registration was that a site visit would be conducted by September 1, 2012. Since no pre-registration site visit took place, this post-registration site visit would be PCTIA's first to the institution. Although the site visit was scheduled for the end of September 2012, it did not occur. PCTIA's first site visit to the institution was on April 22, 2013, more than a year after registration. During this visit, PCTIA met

with institution staff, an instructor and students, and reviewed relevant documentation, including student files.

As a result of the site visit, PCTIA found significant problems with the institution's student contracts and co-op programs. The problems with the student contracts included incomplete contracts and inconsistent start and end dates and admission requirements. Records also indicated that the institution told students that if they withdrew from the institution they would be deported. The problems with the co-op programs included a lack of documentation of co-op placements on student files, employment of students in fast food restaurants (which was unrelated to program learning outcomes) to meet work experience requirements, lack of placements or assigned placements for many students, and no monitoring or evaluation of the co-op placements by the institution. These problems occurred despite promises by the institution to address concerns raised by PCTIA with its co-op programs before the programs were approved.

PCTIA suspended the institution's registration on May 14, 2013, and imposed 16 conditions that needed to be met by June 1. The institution responded to these conditions by updating its student files and providing additional documents to PCTIA on May 28, but a site visit on June 3 demonstrated that the institution was still unable to meet seven of PCTIA's conditions. After the site visit, the institution asked for additional time to address the issues raised and outlined plans to hire a work placement officer. The institution's response to the conditions did not lessen PCTIA's concerns, however, particularly regarding current students. PCTIA cancelled the institution's registration on June 7, 2013, about 15 months after it was first approved.

Following the institution's closure, 55 students made claims against the Student Training Completion Fund.¹⁶⁸ All 55 students were provided a partial tuition refund on the basis that the institution had closed before their program was completed. In addition, 17 of those students made additional claims against the Student Training Completion Fund on the basis that they were misled by the institution. Each of these students was awarded a full tuition refund. The total amount awarded from the fund as a result of this institution's conduct was \$393,499.31. Although students' tuition was refunded in whole or in part, this did not address additional living costs incurred by students while taking the programs. It also did not compensate for the time students lost in attending those programs.

The problems with the institution's co-op programs are the types of issues a site visit by an oversight body could have detected and potentially prevented. The delay in scheduling PCTIA's site visit exacerbated the problems with the co-op programs, and allowed them to continue for a needlessly long period of time.

Analysis

PCTIA is not required to visit institutions within six months of registration, but has nonetheless identified six-month site visits as an important oversight tool. PCTIA has completed such visits to only 38 per cent, 19 per cent, and 12 per cent of newly registered institutions in 2011/12, 2012/13 and 2013/14, respectively. This means

¹⁶⁸ This included students who had been accepted into the institution's programs and made a deposit but were not yet in attendance, and students who had withdrawn from the institution and were awaiting a refund.

PCTIA did not visit the majority of newly registered institutions within the first six months of their operation.

that PCTIA did not visit the majority of newly registered institutions within the first six months of their operation.

Conducting site visits soon after an institution first registers is, however, vitally important. These visits give the institutions an opportunity to discuss with the private career training institutions oversight body any early concerns they may have and seek support that will allow the institutions to maintain compliance with requirements. Similarly, they provide an important opportunity for staff from the oversight body to meet students, instructors and staff to ensure that they are aware of the oversight body's role and the student complaints process. Such visits also allow the oversight body's staff to get a feel for how the institution is actually operating.

As the above example demonstrates, a site visit soon after registration allows the private career training institutions oversight body to confirm both compliance with the Act, the Regulation and the bylaws, and that programs and facilities have been set up in a way that is consistent with the institution's registration application. A mandatory site visit within the first six months after a new institution is registered would allow the private career training institutions oversight body to detect any early compliance issues and take the necessary steps to correct them before students' interests are harmed.

Finding and Recommendation

F7 The Private Career Training Institutions Agency is not required to and has not conducted site visits to all institutions within six months of registration.

R10 The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conducts a site visit to all institutions within six months of registration for the purpose of completing a comprehensive review of operations.

Accreditation

Once an institution has been registered and is in good standing for one year, it can apply to PCTIA for accreditation.¹⁶⁹ Accredited institutions must meet and maintain additional standards of quality.¹⁷⁰ Institutions who want to apply for a StudentAid BC designation (which allows students to apply for government student loans to attend the institution) or the Education Quality Assurance designation (which, since June 1, 2014, is required for institutions that want to enrol international students) must be accredited by PCTIA.¹⁷¹

A registered institution seeking accreditation must demonstrate that it has operated in good standing for at least one year, has been training students continuously for the preceding year, has sufficient student enrolment and graduates from its programs to assess the educational effectiveness of the programs, and is financially stable.¹⁷²

¹⁶⁹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 9(1); Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 18.

¹⁷⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 19.

¹⁷¹ Private Career Training Institutions Agency, "Apply for Accreditation" <<http://www.pctia.bc.ca/institutions/achieve-accreditation-status>>.

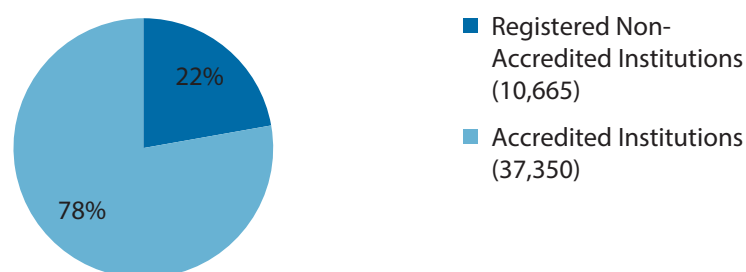
¹⁷² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 18.

As part of the application for accreditation, institutions must:

- attend a “new accreditation workshop”
- arrange for a site visit by PCTIA
- submit all required application forms and attachments
- pay a non-refundable accreditation application fee of \$2,600 for a main campus, \$1000 for a branch campus and \$500 for other locations¹⁷³

As of June 30, 2014, 156 (49 per cent) of the 320 private career training institutions registered with PCTIA were accredited. Accredited institutions account for 78 per cent of enrolment at all private career training institutions. Although it is mainly smaller institutions that are registered but not accredited, there are at least 20 registered non-accredited institutions with more than 100 students enrolled. The two largest registered non-accredited institutions have over 1,000 students each.¹⁷⁴

Figure 12: Enrolment at Registered Non-Accredited and Accredited Institutions¹⁷⁵



Assessment of Institutions by Recognized Organizations

On June 19, 2014, PCTIA's bylaws were amended by ministerial order to allow an institution whose programs have been “accredited, approved or licensed by a recognized organization” to bypass the normal accreditation process. Prior to this, institutions were all required to meet the accreditation standards set out in PCTIA's bylaws directly. Since the bylaws were amended, institutions may apply for consideration as having met “a substantial portion” of the basic education standards or accreditation standards of quality as a result of this outside assessment process.¹⁷⁶ The registrar may rescind approval given to an institution under this section.¹⁷⁷ The bylaws do not indicate when the registrar may rescind such approval, only that it is at his or her discretion.

In describing the change, PCTIA said it would allow recognition of Languages Canada's accreditation process for language schools, which, as a result of the federal government's changes to student visa rules, will now be regulated by PCTIA or any successor oversight agency.¹⁷⁸ Languages Canada is a private association that sets standards for training in English and French and has its own bylaws, membership

¹⁷³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 20; Part J, s. 46.4.2.

¹⁷⁴ Enrolment for some of these institutions includes short-duration workshops or courses, such as first aid or citizenship test preparation courses. Once an institution is registered with PCTIA, the agency is responsible for overseeing all of the institution's programs, even those which fall short of the 40 hours of instruction and \$1,000 tuition thresholds.

¹⁷⁵ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 12.

¹⁷⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, s. 18.2.

¹⁷⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, s. 18.2.

¹⁷⁸ Private Career Training Institutions Agency, “PCTIA Bylaws Amended to Recognise Languages Canada Accreditation,” 20 June 2014 <<http://www.pctia.bc.ca/news/2014/pctia-bylaws-amended-to-recognise-languages-canadas-accreditation>>.

policies and dispute resolution policy.¹⁷⁹ A corporation or other legal entity whose primary purpose is to provide training in English or French as a second or foreign language can apply to become a member of Languages Canada.¹⁸⁰ The board of directors consists of between 12 to 16 directors, all of whom must be at least 18 years old, capable under law to contract and be either an owner or employee of a member of Languages Canada.¹⁸¹ Institutions that provide training in one or both of these languages can join the association and apply for accreditation. PCTIA said that it had “compared Languages Canada accreditation requirements to PCTIA registration/accreditation standards and determined that a number of the agency’s standards are met by virtue of an institution’s membership with Languages Canada.”¹⁸² PCTIA also said this change would allow for a reduction in fees charged to institutions because they will have to pay for fewer site visits.¹⁸³

Languages Canada’s accreditation process is set out on its website.¹⁸⁴ The accreditation application package, which includes a facility questionnaire, terms and conditions, and a deposit, is submitted to a third-party auditing firm. This firm conducts a preliminary review of the documentation, identifying areas for improvement and scheduling an on-site visit. The on-site review results in an on-site review report and a recommendation as to whether accreditation should be granted. Languages Canada’s website indicates that the accreditation process is performed by a contracted third party and not by Languages Canada. Languages Canada has Quality Assurance Scheme Standards and Specifications related to admissions, student services, teaching staff, curriculum, marketing and recruiting, and administration, which the third-party auditor reviews during the accreditation process using a checklist.¹⁸⁵ While these standards and specifications appear similar to PCTIA’s registration and accreditation standards, the new bylaws could result in PCTIA granting accreditation to an institution based on another outside organization granting it accreditation, without PCTIA – or the other organization – ever directly conducting a thorough assessment of the institution.

The wording of the new PCTIA bylaw does not clearly indicate that having registration or accreditation requirements met through outside agencies is limited to institutions accredited by Languages Canada. The bylaw does not establish a definition of “recognized organization.” Other private organizations accredit educational programs, including, for example, private career colleges generally,¹⁸⁶ occupational diving programs¹⁸⁷ and dental assistant programs,¹⁸⁸ although to date, Languages Canada is the only organization that has been recognized under the amended bylaw.

¹⁷⁹ Languages Canada, “By-laws and Membership Policies” <<http://languagescanada.ca/supporting-members/#custom-tab-0-membership-policies>>.

¹⁸⁰ Languages Canada, revised By-Law No. 1, September 2014, Part 3.

¹⁸¹ Languages Canada, revised By-Law No. 1, September 2014, Part 5, s. 5.1 and 5.6.

¹⁸² Private Career Training Institutions Agency, “PCTIA Bylaws Amended to Recognise Languages Canada Accreditation,” 20 June 2014 <<http://www.pctia.bc.ca/news/2014/pctia-bylaws-amended-to-recognise-languages-canadas-accreditation>>.

¹⁸³ Private Career Training Institutions Agency, “PCTIA Bylaws Amended to Recognise Languages Canada Accreditation,” 20 June 2014 <<http://www.pctia.bc.ca/news/2014/pctia-bylaws-amended-to-recognise-languages-canadas-accreditation>>. This, in turn, would reduce PCTIA’s budget as it is funded solely through contributions from institutions.

¹⁸⁴ Languages Canada, “Certification Process: Accreditation of Language Programs” <<http://www.orioncan.com/documents/LC%20Accreditation%20-%20Marketing%20Brochure%20rev11.pdf>>.

¹⁸⁵ Languages Canada “Quality Assurance Scheme Checklist,” 14 April 2014 <<http://www.orioncan.com/documents/LC%20QA%20Scheme%20Auditor%20Checklist%20rev%20Aprl%2014%2020141.doc>>.

¹⁸⁶ Canadian Education and Training Education Commission, “About Us” <<http://www.cetac.ca/html/about.html>>.

¹⁸⁷ Diver Certification Board of Canada <<http://www.divercertification.com/English/index.html>>.

¹⁸⁸ Commission on Dental Accreditation of Canada <<http://www.cda-adc.ca/cdacweb/en/>>.

Analysis

PCTIA's bylaw change raises serious questions about whether the private career training institutions oversight body will continue to use its own processes for monitoring and assessing institutions' compliance with basic education standards and accreditation requirements. It is not unreasonable for the oversight body to consider accreditation by an outside agency or professional governing body in assessing an institution's compliance with established quality standards for the purpose of assessing an accreditation application. However, there is an important difference between outside accreditation informing the oversight body's evaluation process and outside accreditation replacing the evaluation process in whole or in part. Outside accrediting agencies are not publicly accountable in the same way as government agencies, nor do they have legislative authority to take enforcement in cases of non-compliance. As the National Consumer Law Centre stated in their 2014 report on the regulation of for-profit colleges in the United States:

Accreditation is a voluntary peer-review process that focuses on helping colleges improve when they fail to meet [accrediting] agency guidelines ... the only 'enforcement' tool available to an accreditor is de-accreditation.¹⁸⁹

The bylaw does not establish the process to be followed if the outside agency's accrediting process changes once PCTIA's approval has been given, or whether, having given approval, PCTIA would still be responsible for ongoing monitoring, the accreditation standards and any changes made to them.

An analysis of this bylaw change also raised questions about the process for investigating a complaint about an institution's compliance with basic education standards, or the accreditation standards where an outside agency had determined that the institution had met those standards. Relying on outside agencies may be an efficient way of allowing institutions (and particularly language schools that have not previously been regulated by PCTIA) to meet the government's standards. In some cases, the outside agency conducting a review of an institution may be a statutory regulatory body which, like PCTIA, is required to protect the public interest. However, it would constitute a significant erosion of student protection if the government deferred to outside agencies that are not accountable to the public and which have no legislated duty to uphold the public interest to determine whether an institution has met its standards.

Finding and Recommendation

- F8** The Private Career Training Institutions Agency's (PCTIA's) bylaw allowing institutions to meet PCTIA's educational standards through accreditation by outside agencies does not adequately ensure that PCTIA will retain effective oversight of these institutions.
 - R11** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body is responsible for determining whether an institution has complied with basic education standards and, where applicable, the accreditation standards, even where an institution has been assessed by an outside agency.
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¹⁸⁹ Robyn Smith, *Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools* (Boston: National Consumer Law Centre, 2014) 13.

Program Approval

The Private Career Training Institutions Agency (PCTIA) oversees institutions that offer a wide array of career training programs.¹⁹⁰ From health care to pilot training, yoga instructor training to heavy equipment operation, the programs offered by private career institutions represent a diversity of careers. The only similarity between many of the programs offered by private career training institutions is that they provide at least 40 hours of instruction and have tuition of at least \$1,000.¹⁹¹

The tuition for private career training programs often far exceeds the minimum \$1,000 that makes them subject to PCTIA oversight. Commercial helicopter pilot training programs, for example, have tuition costs of more than \$50,000 for 100 to 190 hours of training and instruction. Graphic design diploma courses offered by private career training institutions can range from \$15,885 for 45 weeks of training to \$30,923 for 60 weeks of training. Heavy equipment operator training can range from \$14,700 for a five-week construction equipment operator course to \$19,500 for a 10-week heavy equipment operator course.¹⁹² As discussed in the Background section of this report, the programs offered by private career training institutions may cost significantly more than equivalent programs offered by public institutions.

The private career training institutions oversight body must ensure that the programs offered by private career training institutions meet established standards that allow students to acquire the skills and knowledge to obtain employment in their chosen field. The diversity of regulated institutions also requires a program approval process that considers not just basic standards but also occupation-specific requirements. Such a system, by using relevant and appropriate criteria to evaluate and approve a program, would protect students while treating institutions fairly.

The Challenge of Diversity

The diversity of programs and institutions regulated by PCTIA is a result of the broad definition of “career training” in the *Private Career Training Institution Regulation*. The expansive federal National Occupational Classification scheme allows PCTIA to register a wide variety of institutions. An institution that is registered with PCTIA displays the PCTIA logo on its website, and can market its programs as PCTIA-approved. With registration comes government recognition. For the public and prospective students, seeing this logo is a sign that the government has certified the program.

There are benefits to having a broad definition of “career training” that encompasses just about any occupation. As discussed in other sections of this report, students benefit when an institution is registered: its programs are required to meet basic education standards, and students who are misled or whose institutions close can access tuition refunds through the Student Training Completion Fund. Some programs clearly lead to defined occupational objectives such as a health care assistant, heavy equipment operator or office administrator. The quality of these programs can be evaluated objectively and in comparison to similar programs offered by other private and public institutions. Other programs, however, do not easily lend themselves to such objective review. A program

¹⁹⁰ For a list of all trades and professions that are regulated in British Columbia (including trades and professions not offered by private career training institutions) see: Trade, Investment and Labour Mobility Agreement, “List of British Columbia Regulatory Authorities,” <<http://www.tilma.ca/pdf/BCRegulatoryAuthorities.pdf>>.

¹⁹¹ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 3.

¹⁹² Information on tuition fees and program length was found on the Private Career Training Institutions Agency website: <<http://www.pctia.bc.ca>>.

may describe itself as the only one of its kind,¹⁹³ raising questions as to whether there are any experts who can effectively evaluate the program's merits. Such programs may teach subjects where specific employment goals or opportunities are not clearly defined. Students in such programs often pay significant amounts in tuition. Basic education standards, such as instructor qualifications, adequate curriculum, and proper method of program delivery may be difficult to evaluate without an appropriate reference point. The existence of such programs at private career training institutions raises questions about how PCTIA is able to conduct a rigorous evaluation during the program approval process.

As the Ministry of Advanced Education moves forward in developing a new framework to regulate private career training institutions, it needs to consider first whether it is appropriate to recognize such programs through registration. If the ministry continues to allow such programs to be offered at private career training institutions, it will be important to establish a careful and consistent approach to program evaluation and approval.

Existing Program Approval Requirements

All new and existing institutions must obtain prior approval from PCTIA for new programs or for substantive changes to existing programs.¹⁹⁴ In our investigation, we found that PCTIA approves the overwhelming majority of program applications. Since 2011, it has rejected about 6 per cent of program applications (see Table 4 later in this section).

All proposed programs must meet the basic education standards set out in PCTIA's bylaws. According to these standards, programs must have "clearly stated educational objectives," offer up-to-date curriculum supported by appropriate instructional materials and technology, and "demonstrate a well-organized sequence of subjects leading to an occupational objective."¹⁹⁵ Mandatory instructional components of programs are set out as:

- a detailed syllabus for each course in a program
- well-defined instructional objectives
- appropriate learning materials and delivery methods
- an appropriate length and combination of lecture and lab or work experience
- appropriate assessment strategies
- the necessary course work to provide students with the opportunity to become licensed in the field (where applicable)
- approval by a governing body of a trade or profession (where required)
- a course length that is not significantly shorter or longer than other comparable programs
- PCTIA's requirements met for program delivery where programs are undertaken in partnership with, on behalf of or by another organization¹⁹⁶

PCTIA approves the overwhelming majority of program applications.

¹⁹³ For example, the College of Core Belief Engineering describes its practitioners program as "unique ... there is no other program like it – anywhere." College of Core Belief Engineering, "Practitioner Training" <<http://www.corebelief.ca/ccbe-college-home.html>>.

¹⁹⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.1.

¹⁹⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.1 and 30.2.

¹⁹⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.1 to 30.7.

Additional requirements apply to programs delivered through distance education.¹⁹⁷

However, the legislation, Regulation and bylaws do not describe how PCTIA should assess whether new programs meet the basic education standards – for example, whether a program’s proposed combination of lecture and lab work is appropriate or what makes a syllabus sufficiently detailed.

Program Approval Process

PCTIA’s website lists eight program approval forms.¹⁹⁸ There are separate forms for new on-site, distance, and combined on-site and distance programs, and for an approved program offered at a different location.

Each form asks an institution to provide information about:

- program duration, class size and tuition cost
- program approval granted by a relevant governing body, if necessary
- work-experience components, including the requirements for obtaining and completing work placements, whether the work-experience is needed to complete the program, and a list of work sites that have agreed to host students
- basic education standards, including admission requirements, curriculum, minimum qualifications for instructors, and student assessment methods
- program delivery, including available facilities and resources, method of instruction, student access to instructor assistance, and avenues for student feedback
- on-site facilities or distance delivery methods and student access to either or both (if a combined program)

The form for institutions seeking to offer an already existing program at a different location does not require the institution to provide information on new work-experience placements associated with the program’s new location.

There are different versions of these forms for registered and accredited institutions. The forms for registered and accredited institutions are, however, largely identical. Accredited institutions may pay higher fees, although the bylaws provide no rationale for the difference in the cost of new program applications for registered and accredited institutions. Accredited institutions for all four of the program approval forms must obtain recommendations from a Program Advisory Committee that address the suitability and quality of the proposed program.

The bylaws require all accredited institutions to have an independent Program Advisory Committee for each occupation program or group of related occupational

¹⁹⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.8. Distance-learning specific standards include: observable, measurable and achievable student performance outcomes that can be compared to other programs; a clear outline of technology requirements to undertake the program before student enrolment; opportunities and means for instructors to have timely and meaningful interaction with students; and a process for student orientation to distance education.

¹⁹⁸ Private Career Training Institutions Agency, “Resources and Forms for Institutions” <<http://www.pctia.bc.ca/institutions/forms#NewProgReg>>. The eight forms are: New Program – Registered Institution – On-Site Delivery; New Program – Registered Institution – Distance Delivery; New Program – Registered Institution – Combined Delivery; New Program – Registered Institution – Add an Existing Site Specific Program to an Existing Location; New Program – Accredited Institution – On-Site Delivery; New Program – Accredited Institution – Distance Delivery; New Program – Accredited Institution – Combined Delivery; and New Program – Accredited Institution – Add an Existing Site Specific Program to an Existing Location.

programs they offer.¹⁹⁹ Program Advisory Committees are responsible for assisting in program improvement by:

- identifying and suggesting requirements for new programs
- reviewing and suggesting changes and revisions for current programs to ensure programs meet labour market and community needs

Accredited institutions must report the Program Advisory Committees' input and suggestions annually to PCTIA and provide evidence that committee members reviewed and provided feedback on program objectives, learning outcomes, curriculum, content and scope, learning resources, and the adequacy and appropriateness of facility, equipment and instructor minimum qualifications as set by the institution.²⁰⁰

There are no rules concerning who can become a member of a Program Advisory Committee in the legislation, Regulation or bylaws. PCTIA has posted a New Program – Program Advisory Committee Membership and Qualifications form on its website. The form requires institutions to list the name of the program, the member's name and a summary of the member's "qualifications and experience." No further direction is provided, which raises questions about how carefully the qualifications and experience of committee members can be assessed by PCTIA. Furthermore, there is no prohibition against people affiliated with an institution or an institution's operator becoming a member of an institution's committee.

PCTIA requires institutions to follow the above process when they intend to offer new programs. However, nothing in the legislation, Regulation or bylaws establishes how PCTIA should assess and decide whether to approve a program. PCTIA may also use an external subject matter expert to assess a proposed program but is not required to do so. It may additionally gather program information from other governing bodies if they wish to share.

PCTIA may also conduct a site visit as part of the program approval process. Fewer than 4 per cent of new program applications result in site visits. Between May and September 2014, PCTIA received 103 new program applications, which resulted in four site visits. PCTIA did not track the number of site visits it conducted in program approval processes before May 2014.

Review by a Subject Matter Expert

PCTIA staff may not have the expertise to determine whether a proposed new program should be approved. Between 2011/12 and the end of November, 2013, four staff members (originally called institutions officers, then changed to regulatory and compliance officers in December 2011) were responsible for all new program applications. On December 1, 2013, an organizational change resulted in only two staff members – the assistant registrar/quality and assurance manager and manager, compliance and investigations – becoming responsible for new program applications.

The assistant registrar is responsible for approving applications from institutions that are already registered with PCTIA. The manager of compliance and investigations reviews new program applications for new institutions that are also applying for registration with PCTIA.

These positions do not require expertise in any particular career training area. Given the diversity of programs that PCTIA assesses and approves, an impartial

¹⁹⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.3.

²⁰⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.3 and 33.4.1.

PCTIA does not have policies or guidelines regarding the use of a subject matter expert.

external expert can effectively assess both the quality and usefulness of a proposed program. An impartial external subject matter expert can comment on how well the program will prepare students for employment given the curriculum, equipment and facilities. PCTIA's bylaws state that it "may require a site visit that may include an external subject matter expert if the registrar determines that the proposed program change is substantial or requires specialized facilities or equipment."²⁰¹

PCTIA does not have policies or guidelines regarding the use of a subject matter expert; rather, it is left up to staff reviewing a program to determine whether they believe it requires external review. Staff who consider a review by a subject matter expert to be necessary recommend the review to their manager, who, if he or she agrees, passes the recommendation on to the registrar. The registrar arranges for the review by a subject matter expert, and the institution pays for his or her services.²⁰² This is done on average in 9 per cent of applications for new programs or substantive changes to existing programs.

If a subject matter expert is appointed, the expert reviews the program application and conducts a site visit to the institution to assess the proposed program. The expert completes a New Program Subject Matter Specialist Report form, which asks for an assessment of the proposed program in detail, including the adequacy of the curriculum, admission requirements, minimum instructor qualifications, facilities and equipment and program delivery methods.

An example of an expert being used to assist PCTIA in evaluating an institution's proposed new program came to light in our file review.

File Review Summary

An institution proposed a new practical nursing program in an application submitted to PCTIA in August 2009. By January 2010, the governing body had conditionally approved the proposed program; the remaining step was for PCTIA to give its approval.²⁰³

In this case, however, PCTIA contracted with an external expert who was the head of a nursing program at a public college to review the proposed program's curriculum, evaluation tools and the on-site facilities and equipment. The expert's first review and report recommended that PCTIA not approve the program. PCTIA wrote to the institution on February 25, 2010, outlining a number of deficiencies identified by the expert, including:

- *no work experience policies and inadequate information on how outcomes would be accurately, fairly and effectively assessed*
- *inadequate equipment given the maximum number of students listed*
- *equipment not the same as that used in the health authority regions*
- *classrooms and computer labs too small for the maximum number of students listed*
- *no sink for hand washing in classrooms*

PCTIA rejected the application, and told the institution that an additional site visit would be necessary to confirm that the issues highlighted by the

²⁰¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.20; effective as of 9 February 2010 (section 42(1) of 2010 bylaws).

²⁰² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.21. A subject matter expert is paid an honorarium of \$275 per day and is reimbursed for any direct expenses.

²⁰³ The College of Licensed Practical Nurses of British Columbia lists programs it has approved in its bylaws: College of Licensed Practical Nurses of British Columbia, bylaws, Schedule B, "Approved B.C. Practical Nurse Programs" <<https://www.clpnbc.org/Documents/About-CLPNBC/Bylaws/CLPNBC-Bylaws.aspx>>.

expert had been addressed. The institution resubmitted its application and, in July 2010, the same expert was appointed to conduct a second review of the proposed practical nursing program.

The resulting report, dated July 23, 2010, outlined some of the same deficiencies that had been highlighted in the earlier report, particularly with respect to the equipment that the institution intended to use for teaching the practical nursing program. For example, the expert noted the following equipment deficiencies:

- an inadequate number of beds for students to effectively practice with
- beds that do not raise and lower easily
- not enough transfer belts
- not enough supplies for students to learn about medication administration

In October 2010, the expert reviewed the proposed program for the third time. This time, the expert recommended that it be approved. Based on this information, PCTIA, in a letter dated November 2, 2010, finally approved the institution's 13-month-long practical nursing certificate program with work experience. Tuition for the full-time program was \$20,750.

The issues identified in the expert's reviews, which were eventually remedied, related directly to the quality of education students would receive. If there had been no review by a subject matter expert these issues would not have been raised and addressed. This example demonstrates the value of a careful review of new program proposals. As Table 4 shows, however, PCTIA uses subject matter experts infrequently.

Table 4: Use of Subject Matter Experts in the Program Approval Process

Fiscal year	Number of applications for new programs or substantive changes to existing programs	Number (percentage) of applications approved by PCTIA	Number (percentage) of applications where PCTIA appointed a subject matter expert to review	Number of applications approved or rejected by PCTIA following review by a subject matter expert*
2011/12	341	312 (91%)	25 (7%)	not tracked
2012/13	353	327 (93%)	38 (11%)	not tracked
2013/14	380	369 (97%)	34 (9%)	not tracked
TOTAL	1,074	1,008 (94%)	97 (9%)	—

* This information is not tracked by PCTIA.

In the past three fiscal years, PCTIA has approved 94 per cent of the applications it has received for either new programs or substantial changes to existing ones. On average, less than one out of ten proposed programs is subject to review by a subject matter expert.

PCTIA also does not track the number of new program applications that are approved or rejected following review by subject matter experts. This information is a valuable indicator of institutions or program areas that could benefit from closer scrutiny and subject matter expert review.

Comparison with Ontario's Program Approval Process

In our investigation, we compared the program approval processes used in British Columbia and Ontario.

In Ontario, private career training institutions are regulated by the Ministry of Training, Colleges and Universities under the *Private Career Colleges Act, 2005*.²⁰⁴ As in British Columbia, institutions can only provide programs that have been approved by the Superintendent of Private Career Colleges, the equivalent of British Columbia's PCTIA registrar.²⁰⁵ There are approximately 420 registered private career colleges in Ontario with a total enrolment of approximately 53,000 full-time equivalent students.²⁰⁶ Ontario, with a population three times greater than British Columbia, has only 10 per cent more students in private career training institutions. This gives some indication of how important this sector is in British Columbia.

In Ontario, the superintendent can issue policy directives setting out standards, performance indicators and performance objectives for vocational programs or classes offered by private career colleges.²⁰⁷

Ontario's superintendent has created policy directives that outline specific program approval requirements for institutions offering training in several fields, including:

- security guard or private investigator²⁰⁸
- esthetics²⁰⁹
- dental hygiene²¹⁰
- ultrasound technology or medical sonography²¹¹
- hairstyling²¹²
- developmental services worker²¹³

The policy directives include requirements for new program approval that relate to the specific area of training or instruction. For example, the policy directive for ultrasound technology or medical sonography programs requires private career institutions to obtain accreditation from the Canadian Medical Association Conjoint

²⁰⁴ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L.

²⁰⁵ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 23(1).

²⁰⁶ R. Pizarro Milian and M. Hicks, *Ontario Private Career Colleges: An Exploratory Analysis* (Toronto: Higher Education Quality Council of Ontario, 2014), 4.

²⁰⁷ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 53(1)(a).

²⁰⁸ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #3: Standards for Programs in the Security Guard or Private Investigator Fields*, 15 April 2010 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/SecurityGuards2010.pdf>>.

²⁰⁹ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #6: Esthetics Program Approval Requirements*, 13 August 2010 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/policyEsthetics.pdf>>; Ministry of Training, Colleges and Universities, *Private Career College Esthetician Subject Specific Standard*, March 2010 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/private/documents/Esthetician.pdf>>.

²¹⁰ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #7: Requirements for Dental Hygiene Programs*, 18 February 2011 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/Dentalpolicy.pdf>>.

²¹¹ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #8: Approval of Ultrasound Technology of Medical Sonography Training Programs*, 31 August 2011 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/Medicalpolicy.pdf>>.

²¹² Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #10: Approval of Hairstylist Programs*, 1 May 2013 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/directive10.pdf>>; Ministry of Training, Colleges and Universities, *Private Career College Hairstylist Training Standard*, October 2012 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/private/documents/Hairstylist.pdf>>.

²¹³ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #12: Approval of Developmental Services Worker Programs*, 5 December 2013 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/PolicyDirective12.pdf>>; Ministry of Training, Colleges and Universities, *Private Career College Developmental Services Worker Subject Specific Standard*, 2013 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/DSWstandardPCC.pdf>>.

Accreditation Service.²¹⁴ The institution must obtain probationary program approval from the superintendent, demonstrate that it has secured clinical placements for all students through agreements with the clinical placement provider, obtain a favourable third-party assessment from the Canadian Society of Diagnostic Medical Sonographers, and meet all other program approval requirements under the *Private Career Colleges Act, 2005*. If the institution satisfies those requirements and five other conditions established in the policy directive, the superintendent will grant probationary program approval. Once the institution obtains accreditation from the Canadian Medical Association Conjoint Accreditation Service, the superintendent will re-approve the program for the period specified by the superintendent and while accreditation is maintained.

Similarly, private career institutions in Ontario intending to offer hairstyling programs are required under a policy directive to adopt the ministry's Private Career College Hairstylist Training Standard, obtain a third-party assessment attesting to compliance with the standard, and submit a program approval application. The standard establishes training requirements and subject-specific requirements, including vocational requirements in areas such as health and safety, entrepreneurial skills, client service, and hair cutting and styling. The standard also establishes essential employability skills for success in the workplace. Table 5 compares the requirements for approval of hairstylist programs in British Columbia with those in Ontario.

Table 5: Program Approval Requirements for New Hairstylist Programs in Ontario and British Columbia

Ontario	British Columbia
Adopt the ministry's current Private Career College Hairstylist Training Standard, which establishes minimum instructional hours, occupation-specific learning outcomes and employability skills	Meet basic education standards as set out in PCTIA's bylaws (and accreditation standards if institution is accredited)
Obtain a third-party assessment confirming compliance with the standard	
Require all students to have a grade 12 diploma and sign the Student Enrolment in Hairstyling Disclaimer	

All private career institutions in Ontario intending to offer programs in other areas where the superintendent has developed a policy directive must meet all of the occupation-specific requirements of the policy directive before they are approved.

Analysis

The majority of new program applications in British Columbia involve completion of the same standard forms, whether the program teaches core belief engineering, hypnotherapy, computer programming, animal care, office administration, practical nursing or heavy equipment operation. The forms only differ based on the institution's registration or accreditation status and on the method of program delivery (for example, on-site, distance, or combined on-site and distance). There are no distinctions in the forms based on the type of programs offered.

²¹⁴ Ministry of Training, Colleges and Universities, *Superintendent's Policy Directive #8: Approval of Ultrasound Technology of Medical Sonography Training Programs*, 31 August 2011 <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/Medicalpolicy.pdf>>.

In the majority of cases, PCTIA staff assess and approve programs – from intuitive medicine to pipefitting – based on a standardized form.

According to PCTIA's website, new program applications submitted to PCTIA can take up to 12 weeks to process. As a result, new program application forms tell institutions to submit their applications at least 12 weeks before the date they plan to start marketing their program. The forms also state that application processing may take longer if additional documentation or a site visit are required.²¹⁵

During our investigation, we heard from institutions that approvals for new programs or changes to existing programs take between four to six months. We also heard concerns from institutions that the sometimes lengthy program approval process limited their ability to offer new programs that would allow students to gain the most up-to-date training. Such concerns apply especially to programs in the computer technology field, where significant changes occur regularly and rapidly. We also heard concerns about delays in approval to short-duration programs, which provide less than 40 hours of instruction and do not lead to certification, such as a weekend continuing education course. Once an institution is registered with PCTIA, the agency oversees all of the institution's programs, even those that would not otherwise meet the threshold for regulation.²¹⁶

The program approval forms are supposed to allow PCTIA to assess whether a program meets established basic education standards. However, the forms focus only on general instruction and education requirements, and not on the specifics of the programs or program areas. The program approval forms are blunt tools that do not allow for an adequate assessment of the needs and requirements of each program area.

Although PCTIA oversees a vast array of program areas, it rarely uses subject matter experts to review program applications. Subject matter experts participated in on average 9 per cent of new program application reviews over the last three fiscal years, and there is no legal or policy requirement to use subject matter experts. The increased cost to an applicant institution of using a subject matter expert, and the potential for delay in the new program application process, may be a disincentive to using experts. This means that in the majority of cases, PCTIA staff assess and approve programs – from intuitive medicine to pipefitting – based on a standardized form.

Accredited institutions have the benefit of a Program Advisory Committee, which provides its recommendations on a proposed program. However, there are no rules establishing the qualifications or impartiality of Program Advisory Committee members. A Program Advisory Committee is not required to evaluate the adequacy of the facility, equipment and curriculum with the same rigour as an independent subject matter expert. In addition, a majority of institutions are registered and non-accredited and do not use Program Approval Committees.

Our investigation found that external expert program review benefits students by helping to protect them from inadequate equipment, facilities or curriculum – as the new practical nursing program example discussed previously demonstrates (see “Post-Registration Site Visits in Practice” earlier in this section).

Other provinces establish specific criteria that must be used in the approval process. For example, in Ontario the *Private Career Colleges Act, 2005* requires

²¹⁵ For example, Private Career Training Institutions Agency, “New Program – Registered, Onsite Delivery,” 13 October 2012 <http://www.pctia.bc.ca/resources/New%20Program%20-%20Registered%20Institution%20-%20On-Site%20Delivery%20INS_140_013.docx>.

²¹⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part D, s. 14.2.

that before approving a program, the superintendent must be satisfied that the program will provide the skills and knowledge required in order to obtain employment in a prescribed occupation, and is likely to meet the applicable standards and performance objectives set out in the superintendent's policy directives, including third-party assessments.²¹⁷ In Manitoba, the applicant must provide for each proposed program an evaluation of the program by employers or industry associations.²¹⁸ Similarly, in Nova Scotia, an applicant must provide the oversight body with an outside review of curriculum as part of the program approval process.²¹⁹ Saskatchewan's program approval form (which is prescribed in its regulations) requires letters of support from potential employers who have reviewed the program's curriculum and can "testify to its appropriateness."²²⁰

British Columbia's program approval process would be improved by identifying specific circumstances where an external expert review will always be required. The oversight body should also issue policy directives for evaluating new program applications, establishing specific criteria for programs leading to careers in specific vocations. This is particularly important where institutions propose to offer programs in a new area in which it may be difficult to find experts with the expertise to review the proposed program.

Such directives would create a program approval process that would recognize the diversity of programs that the oversight body regulates. In certain circumstances, the directives may even assist in speeding up the process for approving new programs and updates to the curriculum of existing programs (see "Reporting and Approving Program Changes" below), by allowing institutions to clearly and effectively demonstrate how they have met the requirements. Similarly, the oversight body's new program application forms should be tailored to ensure the unique needs and requirements of specific types of programs are fully and expertly evaluated before the oversight body gives its approval.

Finding and Recommendation

F9 The *Private Career Training Institutions Act*, Regulation and Private Career Training Institutions Agency bylaws do not establish an adequate program approval process.

R12 The Ministry of Advanced Education establish in regulation:

- (a) the circumstances in which a proposed program must be reviewed by an external subject matter expert before the private career training institutions oversight body can give its approval
- (b) that the private career training institutions oversight body develop and implement policy directives that set out program approval criteria for program or vocation areas, including any requirements established by other governing bodies

²¹⁷ *Private Career Colleges Act*, 2005, S.O. 2005, c. 28, Schedule L, s. 23(3).

²¹⁸ *Private Vocational Institutions Act*, M. Reg. 237/2002, s. 9(1)(d).

²¹⁹ *Private Career Colleges Regulation Act*, S.N.S. 1998, c. 23, s. 6(4).

²²⁰ *The Private Vocational Schools Regulations*, R.R.S., c.P-26.2, Reg. 1, O.C. 884/1995, s. 27(c).

Reporting and Approving Program Changes

In British Columbia, PCTIA's bylaws require all institutions, both registered non-accredited and accredited, to obtain prior approval from PCTIA before implementing the following program changes:

- a change in curriculum exceeding 15 per cent
- an increase or decrease exceeding 15 per cent in the time required for successful completion of a program
- a "significant" departure in the method of program delivery, including changes to the way distance education is delivered.²²¹ "Significant" is not defined in the legislation or the bylaws.

When assessing whether to approve these requests, PCTIA's role is to determine whether the proposed changes will adversely affect the institution's ability to continue to meet the basic education standards or accreditation standards of quality.²²²

Comparing British Columbia's Reporting Requirements with Other Provinces

In our investigation, we looked at what other provinces consider to be "substantive" or "material" changes to programs. When we conducted this comparison, we focused on other provinces' legislation and regulations as they provide the clearest articulation of the existing requirements. In cases where a province used different wording to identify what changes require prior approval, we determined what provision of the legislation or regulation was most clearly analogous to that used in British Columbia. Program changes requiring prior approval from the oversight body vary by province. Table 6 compares program changes that require pre-approval from the oversight body in British Columbia, Alberta, Manitoba and Ontario. Compared to other provinces, British Columbia requires less reporting of program changes that affect students.

Of the four provinces we reviewed, British Columbia requires the fewest number of changes to be approved – only 3 of the listed items in Table 6, compared to 11 in Ontario and 7 in Manitoba. While other provinces require institutions to obtain prior approval for all program changes to curriculum content or program duration, British Columbia requires prior approval only if the changes exceed 15 per cent of the overall program. As the bylaws do not require an institution to report any changes in curriculum or program duration of less than 15 per cent, an institution could avoid this requirement by making a number of smaller changes – for example, by making a series of changes to 10 per cent of its curriculum each time. This risk could be mitigated by requiring institutions to report smaller changes if they exceed 15 per cent over a specified time period.

Other changes to existing programs that would directly affect students, such as a change in fees, the introduction or deletion of a practicum, and the reduction of resources and equipment, are monitored in other provinces but not in British Columbia. Our province has the least amount of oversight for changes to programs that have already been approved.

²²¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.1.

²²² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.1.

Table 6: Program Changes Requiring Oversight Body's Approval

Change to existing program requiring prior approval	British Columbia	Alberta	Manitoba	Ontario
Change to admission requirements	✗	✓	✓	✓
Change to curriculum content/degree of vocational knowledge or specialization	✓†	✓	✓	✓
Change in duration of program	✓†	✗	✓	✓
Change to fee payable by student	✗	✓	✓	✗
Introduction or deletion of a practicum	✗‡	✗	✗	✓
Change to method or mode of delivery	✓¥	✗	✗	✓
Change in policies or procedures for granting advanced standing	✗	✗	✗	✓
Change in qualifications of instructors	✗	✓	✗	✗
Reduction or loss of equipment, facilities and learning resources	✗	✗	✓	✓
Change in requirements for completion of or advancement within program	✗	✗	✓	✓
Change to student contract	✗	✓	✗	✗
Change in title of program	✗	✗	✓	✓
Change adversely affecting the institution's ability to comply with oversight body's approval of the program	✗	✗	✗	✓

Sources: Private Career Training Institutions Agency, revised bylaw, 25 March 2014, Part G, s. 35.1; *Private Vocational Training Regulation*, Alta. Reg. 341/2003, s. 9(a); *Private Vocational Institutions Regulation*, Man Reg. 237/2002, s. 10(4); *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 23(6); *General*, O. Reg. 415/06, s. 13.

† Change only requires approval if it exceeds 15 per cent.

‡ "Introduction or deletion of a practicum" is not a substantive change listed in PCTIA's bylaws. Although PCTIA's Substantive Program Change form includes space for institutions to list changes to practicums, an institution is not required by the bylaws to seek approval for such changes.

¥ Change only requires approval if it is a "significant" departure.

Analysis

PCTIA's bylaws do not clearly define what constitutes a curriculum change of 15 per cent or a "significant departure" in the method of program delivery, which would prompt the need for approval. In British Columbia, institutions are given the discretion to determine what they believe is a 15 per cent change or a "significant departure" from the existing program. Allowing institutions to make these decisions is problematic as institutions may interpret bylaws differently, leading to inconsistent reporting to the oversight body. In some cases, institutions may implement important changes to their programs without following the program approval process. It is important for the oversight body to have clearly articulated program change approval requirements that do not give discretion to the institutions to determine when reporting is required.

It is important for the oversight body to have clearly articulated program change approval requirements that do not give discretion to the institutions to determine when reporting is required.

Table 6 (above) shows that British Columbia does not require prior approval for many significant program changes that directly affect students, such as the reduction or loss of equipment, facilities or learning resources. In cases where it does require institutions to obtain prior approval before making a change, institutions have discretion as to when reporting is actually required. This could put students at risk as institutions might make significant changes to the detriment of students, without the oversight body even being aware that changes have occurred.

The need for more stringent requirements for institutions to report program changes is increased by the lack of any current requirement for PCTIA to audit institutions for program changes. Of course, compliance with program approval requirements could be further enhanced with regular, random auditing of programs by the oversight body.

As many program changes directly affect students, the oversight body needs to have the monitoring tools to protect students from unauthorized and unapproved changes. The lack of clarity in the bylaws erodes the effectiveness of reporting program changes as a monitoring tool.

Finding and Recommendation

F10 The Private Career Training Institutions Agency's list of program changes requiring prior approval by the oversight body does not adequately monitor program changes that directly affect students.

R13 The Ministry of Advanced Education review, expand and establish in regulation the program changes requiring prior approval from the private career training institutions oversight body to establish clear, non-discretionary standards for institutions to report and obtain approval for all program changes that directly affect students.

Programs Requiring Approval from Governing Bodies

Some private career training institutions offer programs leading to certification in occupations that are also regulated by other governing bodies. Areas that are regulated by both PCTIA and other governing bodies include:

- dental assistant (regulated by the College of Dental Surgeons of British Columbia)
- traditional Chinese medicine and acupuncture (regulated by the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia)
- licensed practical nursing (regulated by the College of Licensed Practical Nurses of British Columbia)
- electrician (regulated by the Industry Training Authority)
- commercial pilot (regulated by Transport Canada)

Generally, governing bodies regulate all aspects of the practice of these professions. Governing bodies of health professions, for example, have a legislated duty to serve and protect the public and to exercise their powers and discharge their responsibilities in the public interest.²²³ In carrying out this role, governing bodies may establish the minimum educational requirements that applicants must

demonstrate before being licensed to practice and may maintain a list of approved educational programs.

In contrast, PCTIA regulates the training process itself, and its legislative obligations are to protect the interests of both the public and students.²²⁴ This legislated student protection role is unique to a private career training institutions oversight body. As part of its mandate, PCTIA must assess whether a program meets its basic education standards and has the necessary external approvals. Consistent with this role, PCTIA's bylaws have, since March 2005, required all institutions offering "courses or programs requiring approval by a governing body of a trade or profession for entry into that trade or profession" to "provide evidence that, for the licensed or certified component of the curriculum, they have met the requirement and/or have the approval or conditional approval, of that body."²²⁵ Failure to ensure that programs have this external approval at the outset – and on an ongoing basis – could jeopardize students' ability to work in their chosen fields after completing their education and training.

For example, during our investigation, we noted that four institutions shown on PCTIA's website as offering Early Childhood Educator programs were not listed as approved institutions in the *Child Care Licensing Regulation*.²²⁶ Individuals who attend a program not listed in the Regulation cannot follow the usual certification process and must instead petition the director to obtain certification as an Early Childhood Educator or Early Childhood Educator Assistant. Such certification allows people to work in child care and pre-school facilities in British Columbia.

PCTIA has developed only one program approval agreement with a governing body. A 2006 memorandum of understanding (MOU) between PCTIA and the Industry Training Authority (ITA) describes when ITA designation is required. According to the MOU, as of April 1, 2006, PCTIA only gave final approval to programs requiring ITA designation if the institution had been already approved by the ITA.²²⁷ This MOU provides a good example of PCTIA working with an occupational oversight body to ensure consistency in program approval.

During our review of institution and complaint files, we encountered an example where both PCTIA and institutions appeared to be unaware of how a professional or occupational governing body, the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia, was interpreting one of its bylaws. The bylaw required students applying to write the College's licensing examination to have two years' post-secondary education "equivalent to university or college undergraduate studies." For international students, the College interpreted this to mean two years' post-secondary education in the sciences or liberal arts. International students enrolled at an institution offering traditional Chinese medicine and acupuncture programs on the assumption that their previous post-secondary education overseas met this requirement, only to later find (after paying up to \$32,000 in tuition) that it did not. When the students complained to PCTIA that they were misled, their complaints were dismissed on the basis that the institution had provided all of the information it had access to, which did not include the College's interpretation of the policy on post-secondary education. If

²²⁴ *Private Career Training Institutions Agency Act*, S.B.C. 2003, c. 79, s. 3.

²²⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.4.

²²⁶ *Child Care Licensing Regulation*, B.C. Reg. 332/2007, Schedule D. Two of these programs were, confusingly, listed as "recognized programs" on a document published by the Ministry of Children and Family Development: Ministry of Children and Family Development, "Recognized Educational Institutions Offering Early Childhood Education Programs" <https://www.mcf.gov.bc.ca/childcare/ece/pdfs/training_institutes.pdf>.

²²⁷ Memorandum of Understanding between the Industry Training Authority and the Private Career Training Institutions Agency, undated.

PCTIA relies on institutions to identify which programs need governing body approval and to submit confirmation of that approval.

PCTIA had communicated directly with the College about its bylaw, it would have been in a better position to protect students by ensuring that institutions clearly communicated the governing body's requirements.

This example highlights the importance of the private career training institutions oversight body working closely with governing bodies to ensure students are provided accurate and up-to-date information on licensing requirements.

Evidence of Governing Body Approval

As part of the registration process, an institution must complete and submit the Basic Education Standards Compliance form, which asks the institution to list all programs requiring governing body approval and to provide a copy of the notice of approval from the applicable governing body for those programs. PCTIA told us that it contacts the governing body if there is an obvious discrepancy that raises questions about the authenticity of a letter, but that it does not generally need to do this. PCTIA relies on institutions to identify which programs need governing body approval and to submit confirmation of that approval.

Institutions already registered with PCTIA must submit a program approval form including information about governing body approval. The instructions for completing this form create an exception to the bylaw requirements. The form states that an institution will need to provide a "letter, certificate or email" from the governing body noting the name, location, program and date of approval. However, the form also says:

In those cases where the provincially recognized body will not consider approval until the program has been running for a period of time, or where access to the discipline is difficult for the institution to obtain but the program will provide student entry into that discipline, the institution must demonstrate to the Agency that their students are, in fact, employable in the field for which they are trained or demonstrate that the institution has conditional approval from the recognized governing body to offer the program.²²⁸

The process set out in the form is inconsistent with the bylaw. Instead of providing evidence of approval or conditional approval from the governing body, institutions can demonstrate, which may be simply in the form of an assertion, that their students are employable in the field. This creates uncertainty for students as to whether their program has the required approval, or whether the governing body has even been informed of the program.

Once a program is approved, PCTIA may monitor it through any site visits it makes and, if the institution is accredited, through the required three- or five-year accreditation reviews (see "Ongoing Monitoring" later in this section for more details). Currently, however, neither of the checklists used by PCTIA for site visits or accreditation reviews requires the agency to confirm that a program continues to have governing body approval. An institution is not required to report a change in a governing body's approval of a program. PCTIA, therefore, depends on a governing body or an institution voluntarily notifying it if a governing body withdraws approval. Even if it is notified that a program has lost governing body approval, however, PCTIA has no clearly established process, such as suspending or rescinding program approval, that it follows in such situations.

²²⁸ Private Career Training Institutions Agency, "Resources and Forms for Institutions" <<http://www.pctia.bc.ca/institutions/forms#NewProgReg>>.

Analysis

PCTIA's bylaws require institutions to demonstrate that the applicable occupational or professional governing bodies have approved those programs designed to lead to qualifications to work in a certain field. Instead of always contacting a governing body directly as part of the program approval process, PCTIA allows institutions to meet this requirement by providing a confirmation letter, certificate or email from the governing body. In some cases, institutions do not even have to meet these minimal requirements. Instead, the institution only needs to "demonstrate that their students are, in fact, employable in the field."²²⁹ This exception, created in PCTIA's new program application forms, is inconsistent with PCTIA's own bylaws.

PCTIA's reliance on institutions to determine whether there is an applicable governing body assumes that institutions are up-to-date on regulatory and governing body program requirements and approval criteria. PCTIA's approach also assumes that institutions have properly applied those requirements and approval criteria to the programs they are proposing to offer. An institution may not be aware of a governing body's relevance to their program and, as a result, fail to obtain or submit the necessary approvals. In other cases, an institution may be aware of the governing body and its requirements, but fail to identify which of its programs are regulated by the body. This is a significant gap in student protection.

The gaps in PCTIA's process were most vividly illustrated by the actions of the Shang Hai Traditional Chinese Medicine College. In that case, the owner established his own purported federal licensing body and attempted to convince students, PCTIA and the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia (the legislated provincial traditional Chinese medicine governing body) that his licensing body removed the need for approval from the provincial governing body.²³⁰

PCTIA does not generally verify a governing body approval letter provided by an institution unless the letter contains an obvious discrepancy. A more reliable process would be for the governing body, rather than the institution, to send approvals directly to the private career training institutions oversight body.

PCTIA also does not require institutions to demonstrate that they have governing body approval on an ongoing basis. PCTIA does not have any bylaws to deal with situations when a program loses the approval of a governing body. Under the current scheme, it is possible for a program to lose the governing body's approval without PCTIA or students knowing about it.

If the private career training institutions oversight body was required to have direct and ongoing contact with governing bodies regarding programs and approval of programs, it would not need to rely on information provided by the institutions. PCTIA could then have confidence that institutions have obtained and continue to maintain the necessary approvals to offer programs. Direct and ongoing communication between the private career training institutions oversight body and professional or occupational governing bodies would help reduce any overlap between governing bodies and PCTIA that may exist in the program approval process. Such coordination, which could be facilitated through the development of memorandums of understanding, may reduce program approval processing times, resulting in a fairer process for both students and institutions.

It is essential that the programs offered by institutions be carefully assessed and obtain and maintain the approval of a governing body when a course is advertised and designed to lead to qualification for an occupation or profession.

²²⁹ Private Career Training Institutions Agency, "Resources and Forms for Institutions" <<http://www.pctia.bc.ca/institutions/forms#NewProgReg>>.

²³⁰ See Appendix 1 – Missed Opportunities: PCTIA's Oversight of the Shang Hai Traditional Chinese Medicine College for details.

It is essential that the programs offered by institutions be carefully assessed and obtain and maintain the approval of a governing body when a course is advertised and designed to lead to qualification for an occupation or profession.

Finding and Recommendation

F11 The *Private Career Training Institutions Act*, the Regulation and bylaws do not establish an adequate process for the Private Career Training Institutions Agency to confirm that programs needing the approval of a governing body of a trade, profession or occupation have received and continue to maintain that approval on an ongoing basis.

R14 The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:

- (a) develop and maintain an accurate and up-to-date list of all programs regulated by a governing body and the institutions that offer those programs, and make that list publicly available
- (b) before approving a program, communicate directly with any relevant governing body for the purpose of confirming the governing body's approval of the program
- (c) review all programs requiring approval by a governing body annually to ensure institutions maintain governing body approvals and are providing students with accurate and up-to-date information on governing body requirements
- (d) suspend program approval and immediately and directly notify all students of this decision if an institution has not maintained program approval from a governing body

Ongoing Monitoring

Once an institution is registered, the Private Career Training Institutions Agency (PCTIA) is required to monitor the institution's compliance with the *Private Career Training Institutions Act*, the Regulation and the bylaws.

Under the bylaws, private career training institutions must do the following to maintain eligibility for registration:

- comply on a continuous basis with all requirements for registration, including meeting the basic educational standards
- train students on a continuous basis
- fulfil all reporting requirements
- maintain compliance with all applicable local, provincial and federal requirements
- pay fees as set out in the Regulation and the bylaws
- participate in a registration workshop at least every three years²³¹

Accredited institutions are supposed to not only maintain compliance with registration requirements but also comply on a continuous basis with the

²³¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 40.1. PCTIA does not post on its website PowerPoint presentations or descriptions of the information that is discussed in the registration workshop, which should take place every three years. As of September 2014, PCTIA's website stated: "Workshops for existing registered institutions are currently on hold. New dates will be posted as soon as they become available."

accreditation standards of quality set out in the bylaws.²³² The bylaws require accredited institutions to undergo a review three years after accreditation has been granted, and once every five years thereafter.²³³

Ongoing monitoring is an important aspect of student protection. If done effectively, it allows the private career training institutions oversight body to confirm that institutions are continuing to comply with standards, are financially viable, and are providing students with a quality education. There are two main aspects of monitoring that relate to student protection: institutional reporting to PCTIA and PCTIA site visits to institutions. Accredited institutions are subject to additional reporting requirements and periodic accreditation reviews, which are also conducted through site visits.

The bylaws set out enforcement actions that institutions could face if they are found not to have complied with all requirements for registration or accreditation (see the Enforcement section of this report for more details).

Monitoring Responsibilities and Resources

Any oversight body needs sufficient personnel and other resources to complete all necessary monitoring in a thorough and meaningful way, including conducting site visits.

Different PCTIA positions have had responsibility for ongoing monitoring of institutions over the last five fiscal years. Within PCTIA's organization, there were five positions called institutional officers that were responsible for monitoring until 2011, when three regulatory and compliance officers assumed the role. This was a 40 per cent drop in the number of positions assigned to these responsibilities.

Since January 2013, PCTIA's compliance and review officers (CROs) have been responsible for ongoing monitoring of institutions.²³⁴ Their responsibilities include monitoring institutions' compliance with the bylaws, as well as assisting in the development and maintenance of compliance policies and procedures. The CROs' monitoring role includes:

- conducting site visits to ensure compliance with basic education standards and accreditation standards of quality
- reviewing institution files, policies, practices and instructor credentials, and collecting information through surveys and interviews with institution management, instructors and students
- compiling and submitting reports highlighting review findings and conclusions
- recommending follow-up action when compliance is in question, and making recommendations on conditions required to meet standards
- assessing additional information submitted by institutions to determine whether it sufficiently addresses any conditions

In addition to the above duties, prior to January 2013, institutional officers and CROs were also responsible for:

- providing information to members of PCTIA's legal team when program suspensions or closures resulted from a compliance report

Done effectively, ongoing monitoring allows the private career training institutions oversight body to confirm that institutions are continuing to comply with standards, are financially viable, and are providing students with a quality education.

²³² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 41.1.

²³³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 22.5.

²³⁴ PCTIA told us that CROs are responsible for site visits and reporting findings from those visits. Other staff may be responsible for other aspects of ongoing monitoring such as financial reporting by institutions.

Regular annual site visits are an important step in ensuring institution compliance.

- communicating with institution representatives to ensure they understood bylaw and compliance requirements
- communicating with institution management, instructors, students and other regulatory bodies when conducting a compliance review

There are only three CRO positions and 320 institutions. PCTIA is required to visit all accredited institutions annually, and plans to visit all registered institutions annually as well. Although PCTIA is not required to visit each institution every year, regular annual site visits are an important step in ensuring institution compliance. If the limited number of staff and resources hampered PCTIA's ability to carry out its oversight role by conducting these crucial annual site visits, student protection will be even further eroded when the private career training institutions oversight body becomes responsible for regulating private language schools that seek accreditation. Any increase in the number of institutions overseen must be accompanied by a commensurate increase in the number of staff and resources necessary to ensure standards are being met through thorough, complete and ongoing monitoring and annual site visits to all institutions.

In addition, institutions must comply with ongoing reporting requirements that must be reviewed, evaluated and often followed up by a private career training institutions oversight body's limited staff. Private career training institutions in British Columbia offer a vast array of programs with a multitude of admission, curriculum, equipment and licensing requirements. Considering the number of institutions and the monitoring that is required to ensure each institution is in compliance with all requirements, it is not surprising that we found gaps in PCTIA's monitoring. In addition, the CRO positions have not always been fully staffed, meaning that, at times, fewer than three people were tasked with all site visits and the resulting monitoring.

Finding and Recommendation

- F12** The Private Career Training Institutions Agency staffing did not allow it to adequately monitor private career training institutions and ensure that they complied with all requirements and standards.
- R15** The Ministry of Advanced Education ensure that the private career training institutions oversight body demonstrates it has adequate staff to fulfil its oversight responsibilities.

Reporting Requirements for All Institutions

Institutions must report to PCTIA at specified times (for example, monthly or annually) or in specified circumstances (for example, when significant changes occur or are proposed).

Monthly Reporting Requirements

Institutions must report to PCTIA monthly on the tuition they receive. This amount is used to calculate institutions' contributions to the Student Training Completion Fund. Institutions also pay a fixed annual fee in monthly installments or in a single lump sum payment in advance.²³⁵ This fee is used to fund PCTIA.

Annual Reporting Requirements

PCTIA's bylaws impose annual reporting requirements on all institutions. Institutions must submit the following information to the registrar in November each year:

- number of students enrolled
- number of international students enrolled
- number of withdrawals or dismissals
- number of graduates²³⁶

All private career training institutions must also provide PCTIA with financial information annually, including financial statements prepared by a licensed and independent accountant.²³⁷ Institutions must also confirm annually that the existing information on file with PCTIA is current and accurate.²³⁸

The information institutions are required to report annually focuses on their financial viability rather than on the quality of the education they provide. The annual reporting requirements do not require institutions to demonstrate how they are complying with other sections of the Act, the Regulation, or the bylaws, such as maintaining basic education standards. PCTIA can only obtain this information through site visits to the institutions and such visits are not conducted consistently (see "Inspections and Site Visits" later in this section).

Requirement to Report Changes

A registered institution must seek prior approval from PCTIA before implementing the following substantive changes to its operations or programs:

- a change in curriculum exceeding 15 per cent
- an increase or decrease exceeding 15 per cent in the time required for successful completion of a program
- a change in ownership
- a change of location
- the addition of a location
- the addition of a new program, including a short-duration program
- a significant departure in the method of program delivery, including changes to the way distance education is delivered
- a change of the institution's senior educational administrator²³⁹

PCTIA's bylaws require that when assessing whether to approve these requests, the agency must determine whether the proposed changes will adversely affect the institution's ability to continue to meet the basic education standards or accreditation standards of quality.²⁴⁰ If an institution fails to obtain PCTIA's approval before implementing one of the above listed changes, PCTIA may assess a late fee of \$500 or suspend or cancel the institution's registration or accreditation.²⁴¹

²³⁶ Private Career Training Institutions Agency, revised bylaws, 19 June 2014, Part G, s. 39.4.1 to 39.4.4. PCTIA first required institutions to report the number of international students enrolled in programs in the year ending October 31, 2013 (for PCTIA's purposes, this is an "enrolment period"). Both registered and accredited institutions have been required to report all other information since 2006: Private Career Training Institutions Agency, revised bylaw, December 2006, Part IV, s. A(9)(e) and Part V, s. D(2).

²³⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.5.1.

²³⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.6.

²³⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.1.

²⁴⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.1.

²⁴¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.2.

PCTIA also requires institutions to report “non-substantive” changes, such as a change in the institution’s operating or legal name, before they are implemented.²⁴²

Reporting Requirements for Accredited Institutions

Accredited institutions are subject to additional reporting requirements. Accreditation is a voluntary process, so not all institutions are subject to this increased reporting. As of June 30, 2014, 156 (49 per cent) of the 320 institutions registered with PCTIA were also accredited. An additional 17 institutions were also in the process of applying for accreditation.²⁴³ This is consistent with the data from past years, where slightly less than half of all institutions have been accredited.²⁴⁴ PCTIA stated in its 2013/14 annual report that it expected an increase in institutions seeking accreditation due to changes to the federal government’s student visa requirements.²⁴⁵

Accredited institutions must meet the basic education standards and the accreditation standards of quality, both of which are defined in the bylaws. For example, these institutions must meet the basic education standards for instructors and, to comply with the standards of quality, they must also create instructor development plans as well as standards and policies related to the hiring of instructors.²⁴⁶ This does not mean, however, that instructors at accredited institutions have better qualifications or are subject to more stringent evaluations than instructors at registered non-accredited institutions.

Accredited institutions must also establish independent Program Advisory Committees for each occupational program offered.²⁴⁷ A Program Advisory Committee is supposed to “assist in program improvement by identifying and suggesting requirements for new programs and reviewing and suggesting changes and revisions in existing programs thus ensuring programs meet labour market and community needs.”²⁴⁸ Accredited institutions must provide PCTIA with evidence that a Program Advisory Committee has met and provided feedback on a program and that the institution has evaluated the committee’s input and created “action plans” where required.²⁴⁹

²⁴² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 35.3.

²⁴³ Private Career Training Institutions Agency, “Applying for Accreditation” <<http://www.pctia.bc.ca/listings/applicants>>.

²⁴⁴ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 4.

²⁴⁵ Private Career Training Institutions Agency, *2013/14 Annual Report*, 21.

²⁴⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 29.8.

²⁴⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.3 (see “Program Approval Process” earlier in this section for further discussion of Program Approval Committees).

²⁴⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.3.

²⁴⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.3.

The 156 accredited institutions must also report to PCTIA about their graduates and changes in teaching staff.²⁵⁰ Accredited institutions must track their graduates and provide details in November of each year on:

- the number of graduates in training-related jobs for each program six months after graduation
- the number of graduates employed (including in non-training-related jobs) six months after graduation
- the number of graduates at six months after graduation who are continuing their education in full-time studies²⁵¹

Accredited institutions also have to track internally student attrition rates, third-party professional licensing examination results, industry or employer feedback (where available), and current or graduate student satisfaction surveys.²⁵² While PCTIA requests such information from accredited institutions, they are not required by the bylaws to provide it to the agency. Employment outcomes or professional examination success rates of graduates from the 164 registered non-accredited institutions is unknown. It is unclear why PCTIA requires only accredited institutions to track this data, and also why accredited institutions are not then required to pass this data on to PCTIA where it could be used in evaluating programs – part of PCTIA’s responsibility.

It is even more surprising that this information is not publicly available given that PCTIA encourages prospective students to seek it out when choosing an institution. PCTIA’s website suggests that prospective students ask an institution for “statistics on: percentage of students who graduate; how many are working full time/part time post-graduation; and, how many are working in their field of study.”²⁵³ The website cautions that only accredited institutions are required to track such data, but registered institutions might have it anyway. Of course, it would be much easier for students to obtain this information – which PCTIA has recognized as important – if the oversight body itself collected and made public information about graduation outcomes for students at all institutions.

During our investigation, the Ministry of Advanced Education informed us that other areas of the provincial government, such as WorkSafeBC, the Ministry of Social Development and Social Innovation, and the Ministry of Jobs, Tourism and Skills Training have programs where they contract with private career training institutions. Some contracts may involve government clients enrolling in training programs that are more than the 40 hours and \$1,000 tuition threshold that make them subject to PCTIA regulation. As Table 7 shows, not all of these government programs require the institutions where they send their clients to be registered or accredited by PCTIA. Only the Ministry of Social Development and Social Innovation requires programs to have both PCTIA registration and accreditation, and even then only for programs longer than 12 weeks.

It is even more surprising that this information is not publicly available given that PCTIA encourages prospective students to seek it out when choosing an institution.

²⁵⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.7.

²⁵¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.4.5 to 39.4.7.

²⁵² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 33.2. This requirement has been in place since October 1, 2012. PCTIA told us it requests third-party licensing results annually when institutions report their enrolment. PCTIA also collects some employer feedback and student and graduate information as part of accredited institutions’ continuous improvement report filed with PCTIA.

²⁵³ Private Career Training Institutions Agency, “How To Choose A Private Career Training School” <<http://www.pctia.bc.ca/students/how-to-choose-a-school>>.

Table 7: Provincial Government Programs Sending Clients to Private Career Training Institutions

Agency	Program	PCTIA registration required	PCTIA accreditation required
WorkSafeBC	Preventative Services	✓	✗
WorkSafeBC	Vocational Rehabilitation Services	✗	✗
Ministry of Social Development and Social Innovation	Employment Program of British Columbia	✓ [†]	✓ [†]
Ministry of Jobs, Tourism and Skills Training	Canada-British Columbia Job Fund – Canada Job Grant	✗	✗
Ministry of Jobs, Tourism and Skills Training	Canada-British Columbia Job Fund – Employer-Sponsored Training	✗	✗
Ministry of Jobs, Tourism and Skills Training	Canada-British Columbia Job Fund – Employment Services and Supports	✗	✗

† Only applicable to training programs with a duration of 12 weeks or longer.

WorkSafeBC can and does refer its clients to private career training institutions for retraining. For example, as part of its Vocational Rehabilitation Program, WorkSafeBC may pay for a worker's retraining at a private career training institution. PCTIA's website is available for WorkSafeBC's vocational rehabilitation team to review when selecting suitable institutions. WorkSafeBC staff do not as a matter of practice distinguish between unregistered/registered or unaccredited/accredited institutions.

Analysis

PCTIA relies on reporting from institutions to monitor the quality of education provided by private career training institutions. Different requirements apply to registered non-accredited and accredited institutions. This leads to inconsistent approaches to monitoring even though registered non-accredited and accredited institutions may offer the same programs, such as legal assistant or automotive service technician training.

As Table 8 shows, registered non-accredited institutions are not required to track or report on their students' outcomes post-graduation. This provides the oversight body with an incomplete view of these institutions' success in training students for future employment.

Table 8: Annual Reporting Requirements for Institutions

Reporting requirement	Registered non-accredited institutions	Accredited institutions
Financial information	✓	✓
Number of students enrolled	✓	✓
Number of international students enrolled	✓	✓
Number of withdrawals or dismissals	✓	✓
Number of graduates	✓	✓
Changes in instructional administration and staff	✗	✓
Number of graduates in training-related jobs for each program six months after graduation	✗	✓
Number of graduates employed six months after graduation	✗	✓
Number of graduates in full-time studies six months after graduation	✗	✓

Our investigation also identified some information that should be tracked by all institutions. For example, both registered non-accredited and accredited institutions can provide training that prepares students to take third-party licensing exams, but only accredited institutions are required to track how many of their graduates are successful. All students should reasonably be able to expect that they are equally well trained to pass the applicable licensing exam upon graduation. If an institution's graduates have consistently poor or consistently excellent results in a licensing exam, this is important information for the oversight body, students and the public, whether or not the institution is accredited. As this affects all students, the Ministry of Advanced Education should track and report on the licensing exam success rates for graduates of all institutions whose programs prepare students for those exams. PCTIA reported in its 2013/14 annual report that it was planning to establish performance measures for student attrition rates for all institutions.²⁵⁴ While this is important, the outcomes for students who do complete their programs should be tracked and reported as well.

Similarly, institutions that offer career training exist to provide the skills that allow students to enter the workforce in a job relevant to their education. This is true of both registered non-accredited and accredited institutions. PCTIA encourages prospective students to ask for information about an institution's graduates before enrolling, an indication of the importance of this information to students. An institution's success and its attractiveness to future students, therefore, can be measured by the rate of post-graduation employment in the field for which students trained. Only accredited institutions are currently required to track this information. Similarly, only accredited institutions are required to establish Program Advisory Committees, which create a more formal structure for receiving feedback from employers and industry about a program's relevance. These different reporting requirements create inconsistencies in monitoring that the Ministry of Advanced Education should address.

PCTIA encourages prospective students to ask for information about an institution's graduates before enrolling, an indication of the importance of this information to students.

²⁵⁴ Private Career Training Institutions Agency, 2013/14 Annual Report, 24.

Finding and Recommendation

F13 The Private Career Training Institutions Agency does not obtain information about student employment outcomes post-graduation from registered non-accredited institutions.

R16 The Ministry of Advanced Education require the private career training institutions oversight body to track and report publicly on student employment outcomes post-graduation, student and graduate satisfaction surveys, third-party professional or licensing examination results and industry or employer feedback from all private career training institutions.

Inspections and Site Visits

The *Private Career Training Institutions Act* establishes authority for PCTIA to monitor institutions through inspections. What is required to be done during inspections, however, is not set out or explained in the legislation, the Regulation or the bylaws. Under the Act, the PCTIA registrar may appoint an inspector to determine whether to:

- suspend or cancel an institution's registration or accreditation
- change the conditions attached to a suspension

An inspector can also determine whether a person or institution has failed to comply with the Act, the Regulation, the bylaws or the terms and conditions attached to a suspension.²⁵⁵ The Act grants inspectors powers to enter premises, examine records and question a person.²⁵⁶ It is an offence for a person to hinder an inspection or to knowingly provide an inspector with false or misleading information.²⁵⁷ When the registrar does appoint an inspector, the institution must pay all the costs of the resulting inspection, including those associated with the site visit.²⁵⁸ The Compliance Review Officers (CROs) who conduct site visits to institutions are appointed as inspectors under the Act.

Site visits are the most important of all monitoring tools as they provide the only opportunity for PCTIA staff to speak directly with an institution and its students and to observe first-hand an institution's operations.

Under the bylaws, PCTIA can conduct site visits, including annual site visits, to any institution to determine whether an institution is complying with the Act, the Regulation or the bylaws.²⁵⁹ PCTIA is required to visit each accredited institution annually.²⁶⁰ In contrast, PCTIA is not required to conduct site visits to registered non-accredited institutions. However, PCTIA told us that its practice is to conduct site visits to these institutions on an annual basis. PCTIA currently has three CROs who conduct annual site visits to the institutions regulated by PCTIA. The CROs notify institutions in advance of a scheduled site visit.

An institution that refuses to respond to or cooperate with a PCTIA site visit request may have its registration or accreditation suspended.²⁶¹ In addition, PCTIA's bylaws state that an institution will be charged for the cost of a site visit if PCTIA decides

Site visits are the most important of all monitoring tools as they provide the only opportunity for PCTIA staff to speak directly with an institution and its students and to observe first-hand an institution's operations.

²⁵⁵ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 12(1).

²⁵⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 12(2).

²⁵⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 12(3) and 23(1).

²⁵⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.9.

²⁵⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.6 and 46.7.

²⁶⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.8.

²⁶¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.7.

that the institution is non-compliant.²⁶² PCTIA explained that it interprets this bylaw to mean that if it determines after a visit that an institution is non-compliant, it will not charge for the cost of that visit but will charge for the cost of any required follow-up visit.

In the first five years of its operation, from 2004 to 2009, PCTIA did not conduct site visits to registered institutions that were not also accredited. It began conducting site visits to these registered non-accredited institutions in 2009. This coincided with the introduction of new bylaws establishing basic education standards for all institutions.

The bylaws create basic education standards for the following areas of private career training institutions' operations and education:²⁶³

- mission statement or statement of purpose
- financial stability
- organizational structure of the institution
- policies and procedures governing student admissions, attendance, transfer credits, dispute resolution, dismissal, the use and disclosure of the student's personal information and student contracts
- student records
- academic policies and student services
- instructor quantity, qualifications and evaluations
- educational programs, objectives, curricula and materials
- credentials, including transcripts, diplomas or certificates
- facilities and institutional resources²⁶⁴

Number of Annual Site Visits

During our investigation, we asked PCTIA to provide us with the number of institutions that received annual site visits over the past five fiscal years. PCTIA provided us with the total number of site visits conducted in each year, but could not tell us the number of institutions it had visited. PCTIA explained that some institutions are visited more than once, and therefore the number of site visits did not reflect the total number of institutions visited. PCTIA also could not differentiate between site visits to registered non-accredited institutions and accredited institutions. PCTIA told us that it did not track its site visits to different types of institutions, even though there are different monitoring requirements for each.

After reviewing our draft report, which reflected this information, PCTIA then manually searched its files and provided us with revised information that showed the total number of site visits it has completed to registered non-accredited and accredited institutions over the past five fiscal years. The revised information is set out in Table 9, below.

PCTIA is required by its bylaws to visit each accredited institution every year.²⁶⁵ The agency is not required to visit registered non-accredited institutions annually, but PCTIA has stated its practice is to do so. The information in Table 9, however,

²⁶² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.8.

²⁶³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 23.1. All institutions have been required to meet basic education standards since June 1, 2009.

²⁶⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 24 to 32.

²⁶⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 39.8. The bylaws have required PCTIA to conduct annual site visits to accredited institutions since they were amended in by ministerial order in October 2007.

shows that PCTIA did not visit all accredited institutions in four of the past five years as required by the bylaws. It also did not visit all of the registered non-accredited institutions during that time, despite its stated intention to do so.

In the most recent year, 2013/14, PCTIA still could not demonstrate that it had met its goal of visiting all institutions, as some institutions are visited more than once and some have multiple campuses, each of which may have been visited and which are recorded as separate site visits. PCTIA also could not demonstrate that it had visited all accredited institutions as required by the bylaws.

Table 9: Number of Annual Site Visits to Institutions

Fiscal year	Overall number of registered and accredited institutions	Overall number of visits to institutions*	Number of registered non-accredited institutions	Number of visits to registered non-accredited institutions [†]	Number of accredited institutions	Number of visits to accredited institutions [‡]
2009/10	372	158	195	24	177	134
2010/11	356	242	183	118	173	124
2011/12	339	207 [‡]	170	89	169	118
2012/13	321	206 [‡]	162	68	159	138
2013/14	312	360 [‡]	157	178	155	182

* This data does not reflect the number of institutions PCTIA visited as some institutions may have been visited more than once. This also does not include five-year accreditation audits PCTIA conducted; see below for more details on those visits. It does include six month site visits and follow-up visits to the same institution.

† PCTIA does not track this information. This information was only provided to us after PCTIA conducted a manual review of its files in response to reviewing a draft copy of our report.

‡ PCTIA's 2013/14 Annual Report stated it conducted 214 "routine site visits" in 2011/12, 200 in 2012/13 and 244 in 2013/14: Private Career Training Institutions Agency, *2013/14 Annual Report*, 15.

PCTIA's inconsistent tracking is surprising given the agency's stated commitment to site visits, and the requirement to visit all accredited institutions each year.

Site Visit Checklists

During annual site visits, PCTIA assesses whether institutions are complying with the basic education standards and other bylaw requirements, such as those related to advertising.

As of April 1, 2014, PCTIA has used either a basic or a comprehensive checklist for annual compliance site visits to institutions. PCTIA uses a risk management framework to decide which checklist to use. The framework evaluates the risk each institution poses based on the following factors:

- whether the institution has operating funds for two months
- whether a second site visit to the institution was required in the last 18 months (PCTIA did not specify whether or not a second site visit had to have been made)
- whether the institution missed payments to PCTIA in the preceding 12 months
- whether an ownership change occurred in the preceding two months
- whether the institution offers online or distance education (for visits scheduled before September 1, 2014)
- whether the institution offers work experience programs (for visits scheduled after August 31, 2014)
- whether formal student complaints have been filed in the last 12 months

If an institution meets two or more of the risk criteria, PCTIA will use the Compliance Report Comprehensive checklist.²⁶⁶ Otherwise, PCTIA will use the Compliance Report Basic checklist for annual site visits.²⁶⁷

The checklists differ significantly. The Compliance Report Basic checklist requires PCTIA to review some items before the site visit, such as student and archived records and internet advertising. During the site visit, PCTIA reviews the institution's organizational structure, some student records, instructor records, academic policies and student services, educational programs, objectives, curricula and materials.

The Compliance Report Comprehensive checklist requires PCTIA to evaluate significantly more information. This checklist requires PCTIA staff to review and assess an institution's organizational structure, policies, instructor records, qualifications and performance, program curricula and materials, facilities and resources, student work placements and records, and the senior education administrator.²⁶⁸

An important difference between the two checklists is the student records that are reviewed. The basic checklist requires PCTIA to review student enrolment contracts, transcripts, and work placement information, monitoring and evaluation. The comprehensive checklist requires PCTIA to also review student payment, refund and attendance records, student complaints, disputes, grade appeals and dismissals, and whether students meet admission requirements. Similarly, only the comprehensive checklist requires PCTIA to assess the appropriateness of admissions for each program.

The comprehensive checklist also requires PCTIA to assess an institution's facilities and equipment, which the basic checklist does not. Only the comprehensive checklist includes an evaluation of whether the Program Advisory Committee's recommendations have been given due consideration (this applies to accredited institutions only) and whether requirements set as a result of accreditation or PCTIA's reviews have been implemented within established timelines.

Co-op Program Review

Checklists are a useful monitoring tool only if they are sufficiently comprehensive to allow the monitor to assess compliance with all applicable requirements. A 2013 review conducted by PCTIA staff of the co-operative work experience components of programs offered by private career training institutions demonstrated the limitations of PCTIA's checklists. Regular site visits to institutions, conducted using PCTIA's checklists, should have allowed PCTIA to monitor institutions' compliance with work experience requirements, which are part of the basic education standards. However, as PCTIA's review of co-op programs demonstrates, because of inadequacies in the checklists, such site visits were not enough to protect students from co-op programs that failed to meet applicable standards.

On June 12, 2013, PCTIA announced a review of all programs offered by registered institutions that included a co-op component.²⁶⁹ The review was in response to

Checklists are a useful monitoring tool only if they are sufficiently comprehensive to allow the monitor to assess compliance with all applicable requirements.

²⁶⁶ Private Career Training Institutions Agency, "Compliance Report Comprehensive" <[http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026\(1\).docx](http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026(1).docx)>.

²⁶⁷ Private Career Training Institutions Agency, "Compliance Report Basic" <[http://www.pctia.bc.ca/resources/Compliance%20Report%20Basic%20Template%20INS_190_025\(1\).docx](http://www.pctia.bc.ca/resources/Compliance%20Report%20Basic%20Template%20INS_190_025(1).docx)>.

²⁶⁸ Private Career Training Institutions Agency, "Compliance Report Comprehensive" <[http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026\(1\).docx](http://www.pctia.bc.ca/resources/Compliance%20Report%20Comprehensive%20Template%20INS_190_026(1).docx)>.

²⁶⁹ Private Career Training Institutions Agency, "PCTIA Launch Review of Student Co-op Programs in B.C.," news release, 12 June 2013.

None of the 27 institutions were fully in compliance with the co-op program requirements.

the recent closure of two private career training institutions.²⁷⁰ Both institutions had issues with their co-op programs, including placing students in fast food restaurants unrelated to the students' program learning outcomes, and inadequately monitoring, evaluating and documenting co-op placements (for an example, see "Post-Registration Site Visits in Practice" earlier in this section).

Since June 1, 2009, all institutions have been required to obtain prior approval from PCTIA before offering programs that include any type of work experience (such as a practicum, preceptorship, clinical placement or co-op education). In the application process, an institution must provide PCTIA with its work experience policy and evidence showing that work experience placements are in appropriate facilities, are clearly connected to learning outcomes and have an acceptable process for joint assessment of the student by the instructor and employer.²⁷¹ Institutions must provide written evidence that work experience is necessary for successful completion of the course of study, and provide details of the work to be performed and the number of hours per term or semester.²⁷²

Any work experience must be an integral part of the program but must not be more than 50 per cent of the total program of study.²⁷³ The work must also be performed for and evaluated under the supervision of a qualified person in the appropriate field and monitored by the institution for progress and performance.²⁷⁴ Despite the bylaw requirements, however, prior to April 1, 2014, none of the checklists used by PCTIA during site visits included a comprehensive assessment of the co-op component of programs offered by institutions.

When PCTIA conducted the co-op work component review, 27 institutions offered 110 different co-op programs. At the time, 1,354 students were enrolled in registered co-op programs.²⁷⁵

PCTIA conducted its review through site visits to institutions offering co-op programs between June and November 2013. PCTIA used a Co-op Review checklist, which it created for this review, to assess institutions' co-op programs. As a result of using the Co-op Review checklist for the site visits, PCTIA determined none of the 27 institutions were fully in compliance with the co-op program requirements.

Areas in which institutions were non-compliant with co-op requirements included:

- inadequate student evaluation and assessment tools
- failure to include co-op information on student enrolment contracts
- inadequate record keeping
- insufficient evidence that co-op fees were reported to PCTIA as tuition

The review did not result in PCTIA suspending or cancelling any institution's registration or accreditation. Instead, PCTIA sent letters to the non-compliant institutions imposing conditions on their registration. PCTIA imposed between one and ten conditions on these 27 institutions between July 2013 and May 2014. Conditions were imposed on four institutions within one week of the site visit, eight institutions within one month of the site visit, three institutions within two months of the site visit, five institutions within three months of the site

²⁷⁰ Private Career Training Institutions Agency, "PCTIA Launch Review of Student Co-op Programs in B.C.," news release, 12 June 2013.

²⁷¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.9.

²⁷² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.11.

²⁷³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.11.

²⁷⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.11.

²⁷⁵ Private Career Training Institutions Agency, *Co-operative Work Component Review – Fall 2013* (draft report), 27 August 2013, 5.

visits, and eight institutions more than three months after the site visit. PCTIA did not impose conditions on one institution until 11 months after the site visit. None of the conditions appear on PCTIA's website. This means that there is no information available to students or the public identifying which institutions were non-compliant with co-op program requirements, the nature of the non-compliance, or what steps PCTIA took to respond to the non-compliance (see the Enforcement section of this report for further discussion of this issue).

With one exception, the institutions eventually met all of the conditions and they were removed. One condition – that an institution provide written confirmation that the amounts received as “co-op fees” are properly reported to PCTIA as tuition – remains outstanding. Despite this outstanding condition, which was imposed in October 2013, this institution remains accredited and no compliance or enforcement history appears on PCTIA's website. On average, it took institutions 25 business days to meet the conditions, with one institution taking 181 business days to meet four conditions.

A draft report summarizing PCTIA's review of the co-op programs recommended improving processes and expanding co-op program monitoring tools.²⁷⁶ The proposed recommendations include amending the bylaws and developing guidelines, forms and checklists to provide direction to institutions with co-op programs. However, more than a year later the draft report has not yet been completed and no amendments to the bylaws or recommendations related to co-op programs have been made. PCTIA's annual report simply noted that as a result of the review, “institutions now possess a clearer understanding of our requirements and their obligations to students.”²⁷⁷

Since the co-op review, PCTIA has created new site visit checklists (Compliance Report Basic and Compliance Report Comprehensive). As shown in Table 10, however, the new checklists do not require PCTIA to assess as many aspects of co-op programs as the Co-op Review checklist, which PCTIA created specifically for the co-op program review.

A significant number of questions on the Co-op Review checklist are not asked in the new Compliance Report Basic checklist or even the Compliance Report Comprehensive checklist. Some of the “missing questions” relate directly to the conditions that were imposed on institutions following the co-op program review. For example:

- seven conditions related to host agreements and training plans, including providing evidence of signed host agreements between the student, the co-op host and the institution, amending the template agreements to specify a training plan for students while on co-op placements, and ensuring the host agreements and training plans are filed in the students' records
- five conditions related to institutions' co-op policy and procedures, including requiring institutions to provide a revised co-op work experience policy reflecting the practices followed at the institution, and ensuring students receive the policy before they sign a student enrolment contract
- two conditions requiring institutions to provide evidence that student attendance is monitored while they are on co-op placements

²⁷⁶ Private Career Training Institutions Agency, *Co-operative Work Component Review – Fall 2013* (draft report), 27 August 2013.

²⁷⁷ Private Career Training Institutions Agency, *2013/14 Annual Report*, 14.

Table 10: Comparison of Checklists Assessing Co-op Programs

Assessment criteria	All checklists before co-op review	Co-op Review checklist	Basic and comprehensive checklists used after co-op review
Copy of a signed co-op host agreement for each employer	✓†	✓	✗
Co-op policy provided to students before students sign the student enrolment contract	✗	✓	✗
Demonstration that the institution follows its own co-op policy and procedure	✗	✓	✗
Evaluation tool for co-op placements	✗	✓	✓
Evidence of student's attendance at the co-op placement and hours worked	✗	✓	✗
Availability of evaluation for review as part of the student record	✗	✓	✗
Appropriate tuition charged for each program year in multi-year co-op programs is appropriate based on the contract duration	✗	✓	✗
Evidence that co-op placements are held in appropriate facilities	✗	✓	✓
Evidence that co-op placements are connected to learning outcomes	✗	✓	✓
Process in place for joint assessment of the student by the instructor and the employer	✗	✓	✓
Evidence that co-op placements do not exceed 50 per cent of the total program of study	✗	✓	✓
Evidence that co-op placements are under the supervision of a person qualified in the appropriate field	✗	✓	✓
Evidence that co-op placements are monitored for progress and performance	✓‡	✓	✓

† Onsite Checklist: Student Files Checklist

‡ Compliance Report Template: Accredited Institutions Checklist, used between January 2008 and December 2013

The current checklists do not include assessments of co-op host agreements, the institution's monitoring of co-op students or the institution's co-op policies and procedures.

When PCTIA conducted a separate review of all co-op programs, it found that no institutions were fully compliant with its requirements. PCTIA's regular site visit checklists did not require an assessment of co-op programs, so compliance issues were not uncovered and addressed in a timely and efficient way. PCTIA's new checklists still do not require a thorough assessment of co-op programs.

Unannounced Site Visits

Unannounced visits are an important part of any oversight program including restaurant and food inspections, liquor licensing, bylaw enforcement and occupational safety. However, PCTIA does not conduct unannounced site visits unless it receives a complaint from a student or a member of the public that identifies a compliance concern that PCTIA assesses as serious enough to require in-person follow-up. In general, institutions receive prior notice from PCTIA of site visits.

PCTIA has conducted 12 unannounced site visits in the last five fiscal years – one in 2009/10, one in 2010/11, four in 2011/12, three in 2012/13, and three in 2013/14. Compared with Table 9, approximately 1 per cent of PCTIA's site visits to institutions have not been announced.

PCTIA does not conduct unannounced site visits unless it receives a complaint that PCTIA assesses as serious enough to require in-person follow-up.

Site Visits to Accredited Institutions

Just as accredited institutions have additional reporting requirements, they also have additional site visit requirements.

Since 2006, the bylaws have required that institutions seeking accreditation undergo an on-site inspection as part of the application process.²⁷⁸ Since the 2009/10 fiscal year, PCTIA has conducted an on-site visit to every institution applying for accreditation. In contrast, for the registration process institutions must be available for a site visit but none is required (see "Registration" earlier in this section). A compliance review officer (CRO) conducts a pre-accreditation site visit to ensure that the institution is meeting basic education standards. Following this, an accreditation audit team assesses specific areas of the CRO's review and conducts a team site visit.

Audit team members are third-party consultants who are appointed on a contract basis by PCTIA. These external auditors, who include professionals, business owners and educators, are involved as subject matter experts in their field in five-year accreditation reviews, new accreditations and annual institution audits.²⁷⁹

Any individual who is interested in becoming a member of the accreditation audit team can apply to PCTIA by completing a Team Member Application Form, and providing a current resume and two letters of recommendation.²⁸⁰

The accreditation audit team may be composed of one or more team chairs, subject matter specialists, and agency representatives, all of whom are appointed by the registrar. If an institution offers multiple programs, PCTIA typically assigns a subject matter expert for each program area.

PCTIA requires audit team members to sign a confidentiality agreement identifying any conflict of interest that may arise in reviewing a particular institution or program. PCTIA also provides the institution being reviewed with a copy of each audit team member's biography. If an institution objects to a proposed team member, PCTIA will appoint a new one.

Since 2009, the bylaws have stated that an accreditation team will be appointed to visit accredited institutions and conduct what is described as a "rigorous evaluation" at least once every five years after accreditation.²⁸¹ In 2012, the bylaws were amended to require PCTIA to complete an initial review of an institution's

²⁷⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 20.5.

²⁷⁹ Private Career Training Institutions Agency, "Audit Team" <<http://www.pctia.bc.ca/governance/audit-team>>.

²⁸⁰ Private Career Training Institutions Agency, "Accreditation Team Member Application Form" <<http://www.pctia.bc.ca/pdfs/AccreditationTeam%20Member%20Application.docx>>.

²⁸¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 22.2 and 22.5.

accreditation three years after accreditation is first granted, and then every five years thereafter.²⁸²

As bylaws requiring three-year accreditation reviews did not come into effect until 2012, no such reviews have taken place yet. PCTIA told us that since 2010/11, it has completed site visits to every accredited institution due for a five-year accreditation review. Since 2010/11, PCTIA has visited 133 accredited institutions (between 32 and 36 per year) for a five-year accreditation review. There were two cases in 2012/13 where the five-year accreditation reviews resulted in the institutions' registration being first suspended and then cancelled due to non-compliance.

Accreditation Reviews in Practice

The following example demonstrates the importance of regular monitoring in ensuring private career training institutions comply with educational requirements and standards – in this case, in the context of an accreditation review.

File Review Summary

In 2013, PCTIA conducted an accreditation review of a large private career training institution. The review was conducted by a 14-member audit team consisting of PCTIA staff members and external auditors with expertise in the various programs taught by the institution. Site visits took place at the institution's different campus locations over a two and a half month period. During these visits, the audit team met with the institution's staff, instructors and students and reviewed files. One of the purposes of the review was to ensure that the institution was meeting the basic educational standards set by PCTIA's bylaws.

PCTIA found that the institution met only 31 of the 54 applicable basic educational standards at every location. The standards that were not met at some locations included those applicable to both registered and accredited institutions, such as providing students with accurate information about their programs; hiring appropriately qualified instructors to teach programs; and not engaging in advertising or representations that are misleading.

For example, the accreditation team found that the institution's programs did not always meet the minimum instructor qualifications. Under PCTIA's bylaws, both registered and accredited institutions must ensure instructors are "appropriately qualified."²⁸³ Four of the institution's instructors did not have sufficient work-related experience to meet the minimum requirements. For instance, one instructor who was teaching courses in a Legal Assistant Program initially appeared to have appropriate industry-related experience as a legal assistant in a law firm for two years. However, upon closer review by PCTIA, it was discovered that the instructor had worked primarily as a receptionist during this time and, therefore, did not have adequate experience to train students to become legal assistants.

As a result of its review, PCTIA imposed 24 conditions related to basic educational standards on the institution's accreditation. The review also resulted in a follow-up visit being scheduled in 2015.

²⁸² Private Career Training Institutions Agency, revised bylaw, 25 May 2012, Part E, s. 22.5.

²⁸³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part E, s. 29.1 and 29.4. For academic courses, instructors must have a bachelor's degree in that academic area. For career-based programs, they must have either a degree in a related field of study with 24 months of industry-related experience, or 10 years of industry-related work experience.

As this file review summary demonstrates, ongoing monitoring and routine site visits are an essential part of ensuring that institutions meet basic educational standards. An institution may appear to be compliant on paper. However, sometimes, only closer scrutiny through site visits can uncover discrepancies. Ongoing monitoring and enforcement to ensure students receive an education of an acceptable quality is important for both accredited and registered institutions. If the above institution were only registered, not accredited, it would not have been subject to the same review process, even though some of the standards the institution did not meet were basic educational standards that apply to all institutions.

Analysis

Site visits are a critical monitoring tool that can and should be used to assess the quality of education provided by all private career training institutions. As PCTIA recognizes, “site visits allow staff to identify and address [compliance] issues sooner.”²⁸⁴ Different site visit requirements for registered and accredited institutions, however, lead to inconsistent degrees of monitoring, even when the same program is offered by both registered and accredited institutions.

Although all institutions are expected to comply with the bylaws on an ongoing basis, including the basic education standards, there are no requirements for PCTIA to conduct regular site visits to registered non-accredited institutions to examine whether the programs they offer meet the basic educational standards. A lack of site visits means non-compliance may go undetected. PCTIA has begun to address this in the past two years by increasing its visits. However, gaps in PCTIA’s record keeping did not allow us to confirm that all institutions – either registered or accredited – had been visited. The data that PCTIA did collect makes it clear that prior to the 2013/14 fiscal year, not all institutions had been visited.

PCTIA is required to conduct annual site visits and three- and five-year accreditation reviews of accredited institutions. However, accreditation is a voluntary process and fewer than half of all institutions are accredited. Most of the institutions registered with PCTIA are not subject to these monitoring activities. Students remain vulnerable when two different sets of standards exist for institutions that are essentially offering the same programs.

Annual monitoring of all institutions’ compliance with the legislation, the Regulation, and the bylaws is important for ensuring student protection. Students should be confident that they are choosing and attending institutions that are regularly monitored by an oversight body. Regular site visits by that oversight body, both scheduled and unannounced, allow it to examine the facilities, equipment, materials and resources used in class, and to interview students, staff and instructors about the institution. The site visits also allow the oversight body to assess whether an institution is meeting the basic educational standards.

PCTIA also does not provide any public information about its ongoing monitoring activities, including the date of the most recent site visit, the results of the visit, or any schedule of future site visits. Publishing this information would enhance public confidence that regular site visits are being conducted. Publishing dates of future visits would also allow students interested in speaking with PCTIA to plan to participate in the site visit (see “Contacting Students during Site Visits” below).

Students should be confident they are choosing and attending institutions that are regularly monitored by an oversight body.

²⁸⁴ Private Career Training Institutions Agency, 2013/14 Annual Report, 15.

Findings and Recommendations

- F14** The Private Career Training Institutions Agency is not required to conduct regular site visits to all registered non-accredited institutions and does not track which institutions it has visited.
- R17** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conduct a comprehensive site visit to each private career training institution at least once a year.
- F15** The Private Career Training Institutions Agency does not publish the dates of past and planned site visits to private career training institutions on its website.
- R18** The Ministry of Advanced Education require that the private career training institutions oversight body publish on its website:
- (a) the dates and a summary of the results of each of its site visits to each institution for the past five years
 - (b) the date of its next scheduled visit to each institution
 - (c) the date of its next scheduled accreditation review for each accredited institution
-

Contacting Students during Site Visits

As part of its site visits to institutions, PCTIA tries to meet with students. This is a valuable part of the monitoring process, as it gives PCTIA the opportunity to hear and respond to students directly. For example, during a 2013 site visit to one institution, PCTIA spoke with 11 students. Of these students:

- nine said that the institution did not provide them with accurate information about the program before they enrolled
- six said they did not receive program outlines before signing their enrolment contract
- seven said they did not receive textbooks/materials before they needed them in the program
- eight said they did not receive adequate job search support from the institution
- eight raised concerns with the institution's co-op program

PCTIA suspended the institution's registration shortly after this site visit, and later cancelled it entirely. The concerns raised by the students were a factor in PCTIA's decision.

PCTIA gives institutions a few weeks' notice before a site visit. As part of this notice, PCTIA said they send the institution an online student survey to allow students who will not be present at the site visit (for example, distance education students or students enrolled in evening courses) an opportunity to provide feedback to PCTIA. PCTIA, however, relies on the institutions themselves to inform all of their students of the upcoming site visit and the opportunity to provide feedback.

During our investigation, we reviewed 10 randomly chosen PCTIA files concerning site visit notifications from 2012 to 2014 (only files from currently operating institutions were reviewed). In this review, we found 14 site visit notifications that had been emailed to institutions. PCTIA sent the notifications between 6 and 49 days before the scheduled site visit date, with an average of 23 days' notice.

In 13 of the 14 notifications, PCTIA informed the institution that it wanted to meet with a group of students and a group of instructors for the purpose of conducting a survey, and asked the institution to provide it with the number of students and instructors who would be on-site the day of the visit.

In one of the notification emails we reviewed PCTIA did request the institution to inform its students of the site visit. The same email was the only instance we observed where PCTIA included links to student and instructor online surveys. This notification was sent in August 2014 by PCTIA and was the most recent notification we reviewed. Providing a survey link is a new practice, as none of the other notifications sent in 2012, 2013 or 2014, including an earlier notification to the same institution, mentioned student or instructor surveys.

In the August 2014 notification, PCTIA initially sent a notification email one month in advance of the site visit. When the institution informed PCTIA that its students would not be available on that date, PCTIA moved the site visit to the following month.

As mentioned above, PCTIA's notification email to this institution included email templates that contained a link to PCTIA's online student and instructor surveys. PCTIA instructed the institution to immediately forward the templates to all current students and instructors and to advise PCTIA once it had done so. There was no record on file of the institution confirming to PCTIA that it had forwarded the templates to students and instructors, or of PCTIA following up with the institution to seek confirmation. The email template for students outlined PCTIA's role and explained that PCTIA would be conducting a compliance review of the institution on the specified date. The email asked students to complete the applicable online survey by a certain date and to provide PCTIA with feedback on their experience at the institution.

There are two student surveys – one for on-site students and one for distance education students. The surveys ask students to rate their institution in relation to the admission process, instruction, facilities, equipment and supplies, and student services and support. At the end of each survey, students are asked to explain what the institution does well and what it needs to improve, and to make any other comments.

During our investigation, we asked for public input on whether students or instructors were aware of PCTIA providing information to students at private career training institutions about student surveys or interviews. The responses we received indicated that students may not have been informed of PCTIA's site visits or, if they were aware of them, they did not meet with PCTIA representatives during these visits. Few of the students and instructors who provided input to our office were aware that PCTIA had provided any information to students. One respondent said she was interviewed by PCTIA during her institution's accreditation process, but the institution had instructed her on how to respond to PCTIA's questions.

Under the *Private Career Training Institutions Act*, inspectors can "question a person" for the purpose of determining an institution's compliance with the Act, the Regulation or the bylaws. They can also determine whether it is appropriate to suspend or cancel an institution's registration or accreditation. The power of inspectors under the Act could provide PCTIA with a way to ensure that student and instructor meetings take place as part of its monitoring process. However, the wording and context of the power to "question a person" indicates that it is most likely to be used to determine issues of compliance.

Ensuring that students have opportunities to provide input to the oversight body during its monitoring process is an essential part of an oversight process that is focused on student protection.

By contrast, Ontario's *Private Career Colleges Act, 2005* explicitly states the right of the oversight body to meet with students:

The Superintendent or his or her designate may at any time hold a meeting with the students and prospective students of a private career college to advise the students and prospective students of any issues affecting the college and of their rights under this Act.²⁸⁵

Such a meeting can be at any location specified by the superintendent, including at the institution, in which case the institution must permit the meeting to be held.

Analysis

Students in public institutions have long had formal student unions that effectively advocate on their behalf to both institutions and government. Student unions can and do raise concerns about the quality of education, tuition fees and other issues relevant to students. Student unions and other student advocacy groups provide an important counterpoint to the interests of institutions. They help to ensure that students are heard and their concerns are considered in the decision-making process. In short, such groups are another way to help monitor the operations of public institutions.

Students in private institutions, although they may be enrolled in a program equivalent to their counterparts in public institutions, do not have access to these same advocacy organizations. This means that to have equivalent representation of student interests, there must be an active and encouraging process for hearing from individual students and collecting student input. One way of doing this is to ensure that the oversight body meets with students to hear their concerns during visits to institutions.

Although PCTIA attempts to meet with students during site visits, there is no requirement for it to do so. PCTIA has recently attempted to contact students before site visits by asking institutions to forward students an email advising them of the upcoming visit and asking them to complete an online survey. In the file we reviewed, however, there was no record of an institution confirming that it had forwarded the email to its students. Requiring an oversight body to contact students directly would ensure that they are notified of upcoming site visits.

Relying on the institution to inform students of an impending site visit is an inappropriate delegation of PCTIA's oversight role to the institutions. The purpose of informing students about upcoming site visits is to provide students with an opportunity to speak with PCTIA representatives about the institution they are attending and the instruction and training they are receiving. PCTIA ought to inform students directly of this opportunity to speak with them. This would allow PCTIA to ensure that the invitation is extended to all students, and that the purpose of the site visit and student interviews is clearly articulated without the potential for interference from the institution.

Site visits provide an important opportunity for PCTIA to explain its oversight role to students and instructors. Site visits also allow students to speak to PCTIA about the institution they are attending and to ask questions and raise concerns when they have a complaint. Ensuring that students have opportunities to provide input to the oversight body during its monitoring process is an essential part of an oversight process that is focused on student protection. One way to ensure that meetings

²⁸⁵ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 37(1).

with students are part of the monitoring process is to set out in legislation the right of the private career training institutions oversight body to meet with students and prospective students at any time.

Findings and Recommendations

- F16** The Private Career Training Institutions Agency is not required to meet, interview or speak with students at institutions during site visits or during any other monitoring process.
- R19** The Ministry of Advanced Education:
- (a) establish in legislation that the private career training institutions oversight body has the right to contact students at a private career training institution at any time, including as part of the oversight body's site visit to an institution
 - (b) require the private career training institutions oversight body to include a meeting with students as part of all site visits
- F17** The Private Career Training Institutions Agency does not directly notify students of upcoming site visits, but instead relies on the institutions to notify students and instructors.
- R20** The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process to directly notify students of upcoming site visits to an institution and encourage students to contact the oversight body during a site visit.
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ENFORCEMENT

Processes for monitoring institutions' compliance must be supported by useful and effective enforcement mechanisms that have a clear basis in legislation. In the regulation of private career training institutions, the goal of enforcement is to ensure that institutions are in compliance with the legislation, regulations and any other requirements so that students are adequately protected.

Under the current legislation, the Private Career Training Institutions Agency (PCTIA) has limited tools available to respond to institutions' non-compliance with the *Private Career Training Institutions Act*, the *Private Career Training Institutions Regulation* and the bylaws. The only enforcement mechanisms specifically authorized in the Act are to:

- suspend an institution's registration or accreditation, subject to any conditions that are appropriate in the circumstances
- cancel an institution's registration or accreditation
- apply to the Supreme Court of British Columbia for an injunction restraining a person or institution from contravening the Act, the Regulation or the bylaws²⁸⁶

Furthermore, any person or institution that contravenes certain sections of the Act or who hinders PCTIA's work (for example, by providing false information) can be charged with an offence under the Act. Other enforcement measures, including attaching conditions to an institution's registration or accreditation and issuing late fees when those conditions are not met, are established in the bylaws only, rather than in legislation. The only enforcement tools available to deal with unregistered institutions are to seek an injunction or to have the institution owner or operator charged with a breach of the Act as a provincial offence.

In the first part of this section, we address the enforcement mechanisms that are available to PCTIA to protect the public interest. In the second part of this section, we look at the publication of information about enforcement decisions, particularly in cases where the decisions directly affect students.

Enforcement Mechanisms

Suspending and Cancelling Registration

The Act establishes two grounds on which the PCTIA registrar may suspend or cancel registration: the registrar is satisfied that the institution no longer meets the requirements for registration under the Act, or the institution no longer pays the fees set by the bylaws.²⁸⁷ The registrar determines the appropriate length of any suspension, as well as any conditions attached to an institution's registration.²⁸⁸ The registrar may also cancel an institution's registration, which means that it is no longer able to legally operate.²⁸⁹

An institution whose registration has been suspended may continue to provide career training to any students enrolled and in good standing when the suspension takes effect, subject to any conditions the registrar may impose.²⁹⁰ At first glance, the effect of a suspension on current students may be negligible. Current students

²⁸⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 24(1).

²⁸⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(1).

²⁸⁸ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(4)(a).

²⁸⁹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(4)(b).

²⁹⁰ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(5)(a).

are able to continue their training and there is nothing in the legislation or bylaws to prevent the institution from accepting their tuition or issuing them certificates or diplomas if they successfully complete their training while the institution is suspended. However, neither PCTIA nor the institution is required to notify current students of the suspension even if the oversight body is concerned about the quality of the education being provided, which affects students directly (for further discussion of this issue, see “Notice to Current Students” later in this section).

Suspended institutions cannot offer to enrol or provide career training to anyone who was not a student enrolled and in good standing when the suspension took effect.²⁹¹ This means that new students are not supposed to be able to enrol at a suspended institution. During our investigation, however, we reviewed the website of a suspended institution that made no mention of PCTIA’s enforcement decision. A prospective or current student who looked only at this website would not know that PCTIA had taken enforcement action and that the institution was prohibited from enrolling new students. The institution’s website continued to post the “PCTIA Registered” logo and the online application forms were active, accessible and offered new program start dates. This raised questions about the extent to which PCTIA is ensuring suspended institutions are not contravening the legislation.

The Act establishes a process for institutions to request reconsideration of, and then appeal to the board, a decision to suspend registration.²⁹² From November 1, 2012, to October 31, 2013, PCTIA suspended the registration of 13 different institutions (one institution was suspended twice in the same calendar year).²⁹³ Two of these institutions later had their suspensions lifted. Over the same time period, PCTIA cancelled the registration of 14 institutions (10 of these institutions first had their registration suspended).²⁹⁴ None of these cancellation decisions have been reversed. The number of registration cancellations over the past five years has ranged from a low of 9 cancellations in 2011 to a high of 15 in 2012.²⁹⁵

Suspending and Cancelling Accreditation

The registrar may suspend or cancel the accreditation of an institution if satisfied that the institution no longer meets the requirements under the Act for accreditation or no longer pays the fees set by the bylaws.²⁹⁶ Institutions may request reconsideration, and then an appeal, of this decision.²⁹⁷

From November 1, 2012, to October 31, 2013, PCTIA cancelled the accreditation of three accredited institutions; these institutions also had their registration cancelled, which meant they could no longer provide training. In one of these cases, the accreditation and registration were cancelled on the same day. In the other two cases, PCTIA cancelled the accreditation one to two months before cancelling the registration. During the same time period, PCTIA suspended the accreditation of three other institutions. One of these institutions had the suspension lifted (its registration was also suspended and then reinstated) and continues to operate. According to PCTIA’s website, the other two institutions no longer provide training. An institution whose accreditation has been suspended or cancelled has no legislated obligation to stop enrolling or providing training to students. This is

Neither PCTIA nor the institution is required to notify current students of the suspension of an institution’s registration.

²⁹¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 8(5)(b).

²⁹² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 10.

²⁹³ Private Career Training Institutions Agency, “Suspended and Cancelled Institutions” <<http://www.pctia.bc.ca/listings/suspended>>.

²⁹⁴ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 6.

²⁹⁵ Private Career Training Institutions Agency, *2012–2013 Enrolment Report*, 6.

²⁹⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 9(2).

²⁹⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 10.

because an institution can lose its accreditation but still remain registered with PCTIA. There is also no requirement to notify current students of the suspension of PCTIA accreditation. However, the loss of accreditation by an institution can still have important implications for students (see “Notice to Current Students” later in this section). As of October 1, 2012, an institution that has had its accreditation cancelled cannot reapply for accreditation for at least 12 months from the cancellation date.²⁹⁸

Injunctions

PCTIA may apply to the Supreme Court of British Columbia for an injunction restraining a person from contravening the Act, the Regulation or the bylaws. The court may grant an injunction if satisfied that there are reasonable grounds to believe that the person has contravened or is likely to contravene the Act, the Regulation or the bylaws.²⁹⁹ Similarly, the court may require a person or an organization to comply with the Act, the Regulation or the bylaws if there are reasonable grounds to believe that the individual or organization has not or is likely not to comply with the Act, the Regulation or the bylaws.³⁰⁰ The court may also grant an injunction restraining a person or organization from holding themselves out as a registered or accredited institution if they are not.³⁰¹

Since 2005, PCTIA has sought injunctions against 14 institutions:

- ten (71 per cent) of the injunction applications were aimed at preventing unregistered institutions from offering career training, and orders were granted in four of those cases
- two successful applications sought to prevent a closed institution from transferring funds outside the institution before all claims against the Student Training Completion Fund were repaid
- one successful application sought to prevent an unregistered institution from holding itself out as being registered with PCTIA
- one unsuccessful application sought to prevent an institution from using the names of competitor institutions in advertising

Injunction applications are almost entirely used against institutions that have either not registered, but should have, or have ceased to be registered. This indicates that injunctions have not, to date, been used to enforce compliance by currently registered institutions.

Offences

The *Private Career Training Institutions Act* creates four offences:

- providing or offering to provide career training without being a registered institution under subsection 7(1) of the Act
- representing an unaccredited institution, or allowing an unaccredited institution to be represented, as accredited or approved by the government under subsection 7(2) of the Act
- hindering, obstructing or interfering with an inspector conducting an inspection, or knowingly providing the inspector with false or misleading information contrary to subsection 12(3) of the Act

²⁹⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 41.3.

²⁹⁹ *Private Career Training Institutions Agency Act*, S.B.C. 2003, c. 79, s. 24(1)(a).

³⁰⁰ *Private Career Training Institutions Agency Act*, S.B.C. 2003, c. 79, s. 24(1)(b).

³⁰¹ *Private Career Training Institutions Agency Act*, S.B.C. 2003, c. 79, s. 24(1)(c).

- supplying false or misleading information in a document submitted under subsection 23(2) of the Act

The penalty following conviction of an offence is a fine of not more than \$100,000.00.³⁰² However, no one has ever been charged with an offence under the Act.

Enforcement Measures Authorized in the Bylaws

The Act authorizes the PCTIA board to create bylaws that “establish requirements for registration of institutions” and “establish requirements for renewal, suspension, cancellation or reinstatement of the registration or accreditation of institutions.”³⁰³

If an institution fails to comply with the bylaw requirements to maintain eligibility for registration or accreditation, PCTIA may take further action, such as:

- conducting additional site visits with costs charged to the institution
- assigning additional conditions of registration or accreditation
- assessing late fees
- requiring participation in a registration or accreditation workshop
- suspending registration or accreditation
- cancelling registration or accreditation³⁰⁴

The last two measures in the list above, although they also appear in the bylaws, are already authorized under the Act.

When we reviewed PCTIA’s institution files, we noted that PCTIA often imposed conditions on institutions as a result of a site visit or other review of an institution’s compliance. These conditions were imposed to deal with wide variety of concerns, from non-payment of a fee to a student enrolment contract that was not consistent with the bylaws. We also noted in our file review that institutions had been given time extensions to comply with conditions imposed by PCTIA.

As part of our investigation, we reviewed various documents from PCTIA about the number of conditions it has imposed. It was not possible to reconcile the information in the various documents. Ultimately, according to PCTIA, the only way to determine the number of conditions imposed on non-compliant institutions would be to manually review its records for this purpose, which it has not done. As a result, there is no accurate data about the number of conditions imposed, and whether they have been met, cancelled, or are still outstanding. This is important information for an oversight body to track the effectiveness of its monitoring and enforcement processes. PCTIA believes that a new computer system in place since May 2014 will allow it to track this information more reliably.

In some cases, an institution’s failure to meet conditions by the specified deadline results in PCTIA assessing a late fee in the amount of \$500.³⁰⁵ According to the bylaws, late fees can be assessed for a failure to file a report or respond to an on-site evaluation report or any other PCTIA-directed reports or responses that have a

³⁰² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 23(5).

³⁰³ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(h) and (l).

³⁰⁴ Private Career Training Institutions Agency, revised bylaws, 19 June 2014, Part H, s. 40.2.1 to 40.2.6 and 41.2.1 to 41.2.6. These requirements have all been in place since the June 1, 2009, version of the bylaws.

³⁰⁵ The amount that may be charged for late fees is set out in the bylaws: Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.4.13.

specific deadline.³⁰⁶ An institution's continued failure to pay fees in accordance with the requirements may result in suspension or cancellation.³⁰⁷ PCTIA's website lists many suspended institutions where one of the reasons for the suspension was failing to submit required documents or fees by a due date. PCTIA used to assess late fees for late or missed contributions to the Student Training Completion Fund, but no longer does so.

PCTIA assessed late fees 642 times between fiscal year 2009/10 and fiscal year 2013/14, an average of 128 times per year. In the absence of other enforcement measures short of suspension or cancellation, late fees appear to be a *de facto* administrative penalty.

Our review of one file raised questions about when and why PCTIA decides to use or not to use its enforcement tools. In that file, PCTIA received a complaint that an institution was actually an immigration scam. When PCTIA followed up on the complaint four years later, it also came to the same conclusion. Before PCTIA took any enforcement action, the institution changed its programs to offer only programming that exempted it from PCTIA's jurisdiction.

Enforcement Mechanisms in Ontario

As in British Columbia, Ontario's Superintendent of Private Career Colleges (who administers Ontario's *Private Career Colleges Act, 2005* and regulations) may suspend or cancel an institution's registration. The Ontario legislation also establishes offences for violations of certain provisions of the Act. The superintendent's ability to seek an injunction is supplemented by powers to make orders and assess administrative penalties. The superintendent may issue orders to any person or institution the superintendent believes has contravened the Act or the regulations.³⁰⁸ This means that the superintendent can issue orders to an unregistered institution and its operators, and to a registered institution that has breached the conditions of its registration or otherwise failed to comply with the Act or the regulations.³⁰⁹

Since October 2009, the superintendent has had the power to assess administrative penalties against a person or institution that does not comply with a range of provisions in the Act or regulations.³¹⁰ An administrative penalty may be assessed to:

- encourage compliance with the Act and regulations
- encourage compliance with an order
- prevent a person from directly or indirectly benefitting from contravening the Act or regulations³¹¹

The Regulation sets out the provisions resulting in administrative penalties if contravened and the corresponding amount of the administrative penalties in an Administrative Penalties Table.³¹² Administrative penalties range from \$250 to \$1,000, depending on the nature of the contravention. For example, an institution that has not included the superintendent's statement of students' rights and responsibilities with every student contract can be assessed an administrative penalty of \$250. An institution that contravenes the requirements relating to student

³⁰⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.4.13.1.

³⁰⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part J, s. 46.4.13.3.

³⁰⁸ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 46(1).

³⁰⁹ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 46(2).

³¹⁰ *General, O. Reg. 415/06*, Part X.

³¹¹ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 39(2).

³¹² *General, O. Reg. 415/06*, Part X, Table 1: Administrative Penalties.

complaint processes can be assessed an administrative penalty of \$500. A person or institution that hinders, obstructs or interferes with the work of the superintendent can be assessed an administrative penalty of \$1,000. In British Columbia, obstructive conduct would have to be dealt with through the offence provisions in the *Private Career Training Institutions Act*, which have never been used.

In Ontario, the amount of an administrative penalty increases if an institution contravenes the same provision within three years.³¹³ The amount set out in the Administrative Penalties Table is doubled for a second contravention, tripled for a third contravention, and quadrupled for a fourth or subsequent contravention.³¹⁴

The penalty amounts also increase if the contravention continues for two or more days in a row and:

- the person or institution has a history of non-compliance with the Act or regulations, as shown by monitoring processes, orders issued or convictions for offences under the Act
- the person or institution is contravening certain sections of the Act – for example, the prohibition against operating an unregistered institution
- the contravention places, or will place, enrolled students in financial jeopardy³¹⁵

In these cases, the penalty is the amount set out in the Administrative Penalties Table multiplied by the number of days the contravention continues, with a maximum penalty of \$250,000.³¹⁶ An institution can seek a review of a notice of contravention.³¹⁷ A review can result in a notice of contravention being rescinded or confirmed, or the amount of the penalty being reduced on the grounds that it is excessive.³¹⁸

Notices of financial penalties and compliance orders are published on the Ministry of Training, Colleges and Universities' website and can be searched by date and by name of institution (both registered and unregistered).³¹⁹

Analysis

The enforcement mechanisms in the *Private Career Training Institutions Act* are limited. Suspending or cancelling registration or accreditation can have a significant impact on both an institution and its students. The unexpected closure of an institution due to registration cancellation means students will seek a tuition refund and, if they can, transfer to another institution to complete their studies. It is important for an oversight body to have access to a suite of progressive enforcement measures that will encourage compliance but also minimize unexpected disruptions to students' programs. It is also important for an oversight body to be able to take timely and effective action against institutions that are operating without being registered or that continue to operate contrary to the conditions of a suspension.

In his 2008 report on the oversight of private career training institutions, John Watson recommended that the Ministry of Advanced Education "increase the deterrence to non-compliance" by providing legislative authority for the PCTIA registrar to impose progressive discipline, including fines and administrative

It is important for an oversight body to have access to a suite of progressive enforcement measures that will encourage compliance but also minimize unexpected disruptions to students' programs.

³¹³ *General*, O. Reg. 415/06, Part X, s. 51(2).

³¹⁴ *General*, O. Reg. 415/06, Part X, s. 51(2)(a)(b) and (c).

³¹⁵ *General*, O. Reg. 415/06, Part X, s. 51(4).

³¹⁶ *General*, O. Reg. 415/06, Part X, s. 51(3) and (6).

³¹⁷ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 39(6).

³¹⁸ *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 39(9).

³¹⁹ Ministry of Training, Colleges and Universities, "Notices, Orders and Financial Penalties" <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/notices.asp>>.

penalties.³²⁰ In 2009, Ontario introduced a system of administrative penalties that is more effective and fairer for both students and institutions.

PCTIA's use of conditions and late fees demonstrates that it is willing to impose what amounts to administrative penalties. However, the late fees in particular have been used in an ad hoc manner where an institution's failure to submit minor paperwork on time is treated with the same seriousness (in terms of the amount of the late fee) as inadequate or unsafe facilities for students. The system of progressive enforcement adopted in Ontario, in contrast, establishes a class of contraventions aimed at student protection for which appropriate penalties can be assessed based on severity, and escalated in cases of repeated non-compliance without having to resort to suspension or cancellation.

Under the current PCTIA bylaws, institutions cannot request a review of a decision to assess a late fee. Institutions are similarly unable to request a review of certain conditions imposed on them by PCTIA. This is because the current Act limits review to circumstances where an institution's accreditation or registration has been suspended or cancelled. Under the Act, the use of conditions by PCTIA is only contemplated in situations where a suspension has been issued. However, PCTIA bylaws have expanded the use of conditions to circumstances independent from the issuance of suspensions. There is no right to request a review where such conditions have been imposed. Under Ontario's system, institutions can seek a review of any administrative penalty, a process that is fairer for institutions than British Columbia's current framework.

Administrative penalties can be a powerful economic tool in promoting institutions' compliance. Any penalties collected as a result of a progressive enforcement scheme could also be directed to the Student Training Completion Fund and further assist in student protection. Most importantly, a system of administrative penalties allows enforcement measures to be taken quickly where there is a significant risk of harm to students.

Finding and Recommendation

F18 The Ministry of Advanced Education has not ensured that the Private Career Training Institutions Agency has an appropriate range of tools to enforce institution compliance with the *Private Career Training Institutions Act*, the Regulation and the bylaws.

R21 The Ministry of Advanced Education expand in legislation and regulation the enforcement options available to the private career training institutions oversight body by creating a system of administrative penalties that can be progressively applied to persons and institutions, including unregistered institutions, which do not comply with applicable legislative, regulatory and policy requirements.

Publication of Enforcement Decisions

Publishing information about enforcement decisions enhances public accountability and transparency. The public should be able to rely on an oversight body to publish its decisions with sufficient information to adequately protect both students and the public.

³²⁰ John A. Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008), 17.

PCTIA is required by the bylaws to publish some information about a decision to suspend or cancel an institution's registration or accreditation. Specifically, the bylaws require PCTIA to publish the following information on its website for five years:

- the name of the institution whose registration and/or accreditation has been suspended or cancelled
- the date of the suspension or cancellation
- the reason or reasons for the suspension or cancellation
- any conditions attached to the suspension, the period of suspension and the date of reinstatement
- any outstanding application for reconsideration or appeal of the suspension or cancellation³²¹

If the reason for the suspension or cancellation relates to any non-compliance with the Act or the bylaws, which could "directly and negatively impact on students," then:

the entry for that suspension or cancellation shall be highlighted in bold print and the reasons for the suspension or cancellation shall be given with sufficient particularity so as to clearly identify the potential negative impact on students.³²²

The bylaws list examples of non-compliance that could directly and negatively affect students, such as:

- failing to contribute to the Student Training Completion Fund
- engaging in false or misleading advertising
- failing to meet contractual obligations in student enrolment contracts³²³

The importance of PCTIA's publication of enforcement decisions is emphasized by the fact that its website is currently the only source of this information available to the public.

Information on PCTIA's Website

PCTIA's website lists the institutions whose registration or accreditation has been suspended or cancelled.³²⁴ The website organizes the reasons for the suspension or cancellation of an institution's registration or accreditation into the following five categories:

- failure to submit required documents and/or fees by a due date
- basic education standards not met
- accreditation standards of quality not met
- other infraction of the Act, the Regulation or the bylaws
- other³²⁵

The five categories used by PCTIA do not meet the test of publishing reasons for suspension or cancellation decisions.

Some of the posted entries are in bold. This is supposed to indicate that the non-compliance that resulted in the enforcement had a direct, negative impact on

³²¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 42.1.

³²² Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 42.2.

³²³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 42.2.

³²⁴ Private Career Training Institutions Agency, "Suspended and Cancelled Institutions" <<http://www.pctia.bc.ca/listings/suspended>>.

³²⁵ Where "other" was provided as the reason for a cancellation or suspension, PCTIA provided no further explanation on its website.

Our investigation found that PCTIA's website has inconsistent information about the reasons for an institution's suspension or cancellation, and how the institution's non-compliance affected students.

students. While PCTIA's website explains why some institution names are listed in bold print, this explanation is found only if a person clicks a link called "Read More about Suspensions and Cancellations." Our investigation determined that, beyond the somewhat ambiguous use of bold print, the website has inconsistent information about the reasons for the suspension or cancellation, and how the institution's non-compliance affected students.

For example, PCTIA cancelled the Shang Hai Traditional Chinese Medicine College's registration and accreditation on October 25, 2010, shortly after it closed.³²⁶ At the time, PCTIA had decided, as a result of a successful complaint by two former students, that the institution had misled those students about the programs it was offering and students' ability to practice traditional Chinese medicine after completing their programs. The institution closed, however, before PCTIA took any enforcement action. After the institution closed, PCTIA cancelled its registration and accreditation. The posted reason for PCTIA's decision to cancel the institution's registration and accreditation is "Other infraction of the Act, Regulation, or Bylaws." Although PCTIA's entry for that institution appears in bold, PCTIA provides no further explanation. The information on PCTIA's website – "Other infraction of the Act, Regulation, or Bylaws" – does not identify the nature of the institution's conduct, whether it contravened the Act, the Regulation or bylaws and how students were affected. A similar description appears on PCTIA's website for other institutions whose registration has been cancelled due to student protection issues.

Between August and December 2013, PCTIA briefly used a new practice for publishing enforcement decisions. During this time, PCTIA published on its website eight letters to institutions informing them of the decision to suspend or cancel their registration or accreditation.³²⁷ The letters provided reasons for the decision, including a list of compliance issues that led to the suspension or cancellation, with reference to the specific bylaw sections that were infringed. The letters also included a timeline of events and correspondence between PCTIA and the institution, where relevant. In suspension decisions, the letters listed all the conditions that the registrar had imposed on the institution and the dates on which each condition must be met.

All but one of the letters published on PCTIA's website were redacted to protect the identity and personal information of individuals. In one letter, PCTIA also redacted conditions, the institution's responses, bylaw references and PCTIA's conclusions before publishing it. Entire tables of conditions were redacted, including the table headers, so that it was not possible for the public to know what type of information was in the tables.

After December 2013, PCTIA stopped posting the redacted decision letters. Instead, in early 2014, PCTIA began posting summaries of its enforcement decisions, which included the date of the suspension or cancellation, a brief summary of the reasons for the decision and (if suspended) the steps the institution must take to avoid cancellation.³²⁸ As of August 31, 2014, PCTIA had posted four summaries of decisions. It currently intends to continue this practice. This change, however, does not affect any of PCTIA's suspension or cancellation decisions prior to 2014, which have no additional details.

³²⁶ For more information about PCTIA's oversight of Shang Hai Traditional Chinese Medicine College, see Appendix 1 – Missed Opportunities: PCTIA's Oversight of the Shang Hai Traditional Chinese Medicine College.

³²⁷ Private Career Training Institutions Agency, "2013 Publication of Suspension and Cancellation Decisions" <<http://www.pctia.bc.ca/2013-publication-of-suspension-and-cancellation-decisions>>.

³²⁸ Private Career Training Institutions Agency, "Publication of Suspension and Cancellation Decisions" <<http://www.pctia.bc.ca/cancellation-and-suspension-letters>>.

We reviewed online information about one institution whose registration was suspended by PCTIA. PCTIA's website states the date of the suspension, and that the institution requested reconsideration of the decision on the same day. The reasons for the suspension are posted on PCTIA's website, but are not listed under the institution's name or on the institution's entry on the suspended and cancelled institutions webpage. To find them on PCTIA's website, a visitor must click on a separate link called "Publication of Suspension and Cancellation Decisions" at the top of the Suspended and Cancelled Institutions webpage. A link to the reasons directly from the institution's entry would make it easier to find for visitors unfamiliar with PCTIA's website.

This institution's name is listed in bold on PCTIA's website, which means that its suspension related directly to student protection concerns. According to the website, the institution:

- was unable to demonstrate all policies and procedures governing admission are fair, reasonable and effective
- did not have required documents in students' records
- had failed to demonstrate that it had provided meaningful, written student assessments at regular intervals
- had failed to archive student records
- had made representations that were false, deceptive or misleading³²⁹

The enforcement summaries on PCTIA's website are not directly linked to the website listing for an institution and do not contain a date by which the institution is required to comply with any conditions. The four posted summaries are however a first step toward making more information public about institutions' failures to comply with obligations and the resulting enforcement action.

Types of Decisions Published

The bylaws require PCTIA to publish only suspension or cancellation decisions on its website, and not any other enforcement action.³³⁰ Most importantly, PCTIA is not required to publish the conditions imposed on an institution except when they are part of a decision to suspend it. This means institutions that have not complied with the legislation, the Regulation or the bylaws will not have any compliance history posted on PCTIA's website if that non-compliance resulted only in conditions being imposed.

For example, beginning in June 2013, PCTIA conducted a review of all programs that included a co-op work component. None of the institutions that offered a co-op work component were in compliance with all of the bylaws' requirements. PCTIA sent condition letters to all of these institutions. PCTIA's website, however, contains no record of compliance history for any of these institutions. Although two of the institutions have a compliance history from the year prior to the co-op review, the profiles for the other institutions state only, "institution was not suspended within the last 5 years."³³¹

During our investigation, we reviewed the file of one institution with programs that were part of PCTIA's co-op review. This institution had also undergone a separate five-year accreditation review in 2012. Following the accreditation review, PCTIA

³²⁹ Private Career Training Institutions Agency, "Publication of Suspension and Cancellation Decisions" <<http://www.pctia.bc.ca/cancellation-and-suspension-letters>>.

³³⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 42.1.

³³¹ This wording was updated during our investigation. Previously, the history for such institutions would state "no suspension history found." (See "Time Limit for Publishing Enforcement Information" below).

renewed the institution's accreditation in 2013 subject to 19 conditions, all of which PCTIA determined were met by January 2014. Some of these conditions related directly to the protection of students. The accreditation audit team found that:

- The safety policy did not cover issues related to sanitation (students were being trained to provide personal services). The institution was required to submit an updated and revised safety policy and procedure to PCTIA that included cleanliness and sanitation requirements for all programs taught at the institution.
- There was insufficient evidence that all instructors met minimum qualifications. The institution was required to provide evidence to PCTIA that all instructor records were complete and included credentials.
- The facility for one program was outdated, poorly maintained and lacked good levels of hygiene. As well, some equipment in the facility was in poor working order. The institution was required to provide evidence to PCTIA that the facilities were appropriate for supporting the program and that the equipment was properly maintained, safe and in working order.

While the conditions imposed as a result of these compliance issues were still outstanding and not met, the institution's accreditation was continued for another five years. The conditions were not made public and the institution's profile on PCTIA's website states: "institution was not suspended within the last 5 years."³³²

While none of these institutions have been suspended, failing to publish information about other enforcement measures, such as the imposition of conditions, provides an incomplete picture of the institutions' compliance history, particularly when PCTIA identifies compliance issues that directly affect students.

In other regulated areas in British Columbia, such as restaurant safety, residential care and child care, any conditions imposed are made public. When the oversight body is satisfied that the conditions are met, that too is added to the public notice. Similarly, Ontario's Ministry of Training, Colleges and Universities posts on its website a list of all notices, orders and financial penalties issued to both registered and unregistered institutions and, if applicable, whether an order has been complied with.³³³ For example, a notice issued to one institution in June 2014, listed the provisions of the *Private Career Colleges Act, 2005* or regulations contravened by the institution and the actions the institution was required to take to confirm compliance by a specified date. This is important information for both current and prospective students.

Time Limit for Publishing Enforcement Information

In addition to limiting the types of decisions that must be posted, the bylaws require PCTIA to only publish information about its decision on its website for five years following suspension or cancellation of an institution's registration or accreditation.³³⁴ After five years, the information is removed and there is no record of the suspension or cancellation decision on PCTIA's website.

The entry for each institution on PCTIA's website includes a "history" tab listing PCTIA's suspension and cancellation history for that institution. If PCTIA's website did not have a history for that institution, the entry stated, until recently, "no suspension history found." PCTIA's website did not mention, however, that it only published information about suspension and cancellation decisions for five years. Therefore,

³³² Until August 2014, the entry on the website stated "no suspension history found."

³³³ Ministry of Training, Colleges and Universities, "Notices, Orders and Financial Penalties" <<http://www.tcu.gov.on.ca/pepg/audiences/pcc/notices.asp>>.

³³⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part G, s. 42.1.

stating “no suspension history found” may have given the impression that an institution had never had its registration or accreditation suspended or cancelled.

During our investigation, PCTIA changed the message under an institution’s “history” tab from “no suspension history found” to “institution was not suspended within the last 5 years.” While this new message is more accurate than the previous one, it still does not provide a complete picture of an institution’s compliance history. It also indicates, perhaps unintentionally, that an institution may have been suspended more than five years ago when, for the majority of institutions, this is not the case.

During our investigation, we reviewed the files of institutions whose registration was suspended and then cancelled for non-compliance with PCTIA’s requirements. The following example describes the problems that occurred at one such institution. As these problems occurred more than five years ago, there is no information about this institution on PCTIA’s website.

File Review Summary

In July 2005, PCTIA learned that a registered institution, Rutherford College, appeared to be offering programs leading to degrees and was referring to itself as Rutherford University. This information was based on a website, linked to the institution, which advertised degrees. Such activity was contrary to the Degree Authorization Act, as Rutherford did not have authorization to offer any degree programs.³³⁵ PCTIA wrote to the institution, and told it to cease offering degrees and referring to itself as a university. Rutherford, in its response, denied any relation to the website.

In January 2006, PCTIA staff attempted to visit Rutherford but were not able to meet with the head of the institution and did not enter the premises. PCTIA staff returned in March 2006, and according to PCTIA’s records, were refused access to student files. The PCTIA registrar subsequently wrote a letter requesting access to the student files.

No further compliance measures were taken, however, until May 17, 2007, when PCTIA and the Ministry of Advanced Education removed records from Rutherford’s administrative office. The records showed that Rutherford had been issuing degrees without authorization. On May 24, 2007, PCTIA suspended Rutherford’s registration. The registrar found that Rutherford had breached the Private Career Training Institutions Act by offering courses that purportedly led to a degree. The registrar determined that Rutherford had misled both students and PCTIA. Rutherford’s registration was cancelled on August 14, 2007. On this date, it was required to stop offering career training, stop advertising and to return its registration certificate.

The Ministry of Advanced Education later posted an investigation report into this matter, which is available on its website.³³⁶ Rutherford is included in a list on the Ministry’s website of institutions not permitted to grant degrees in British Columbia. However, as these events occurred more than five years ago, and because Rutherford’s registration was cancelled and has not been reinstated, there is no information on PCTIA’s website about Rutherford.

Rutherford was also linked with another institution whose records were seized along with Rutherford’s records. PCTIA determined that institution

³³⁵ Degree Authorization Act, S.B.C. 2002, c. 24, s. 3(1).

³³⁶ Ministry of Advanced Education, “Rutherford University (Senior University Inc.) in British Columbia: Inspection under the Degree Authorization Act (DAA)” <<http://www.aved.gov.bc.ca/degree-authorization/documents/rutherford-university.pdf>>.

had an agreement with Rutherford that allowed its students to transfer credits to Rutherford in order to obtain a degree.

On May 24, 2007, PCTIA suspended the institution's registration. In response to a reconsideration application, the registrar decided that it was not in the public interest to cancel the institution's registration and the institution's registration was restored. As this institution's suspension took place more than five years ago, there is also no information about the suspension on PCTIA's website.

Comparison with the Teacher Regulation Branch

It is useful to compare the information PCTIA provides publicly about its enforcement decisions with the information provided by the Teacher Regulation Branch (TRB). The TRB regulates teachers in public and private primary and secondary schools in British Columbia, and protects students by overseeing teacher certification and discipline.

The Commissioner for Teacher Regulation receives complaints about teachers from the public or boards of education.³³⁷ If the commissioner determines that a teacher's conduct was inappropriate or that a teacher is incompetent, the commissioner or a panel of the Disciplinary and Professional Conduct Board may take disciplinary action, including issuing a reprimand, suspending the teacher's certificate of qualification, and cancelling or placing limitations and conditions on the certificate.³³⁸

Under the *Teachers Act*, the written reasons for a panel's disciplinary decision and consent resolution agreements must be made public.³³⁹ In certain defined circumstances, the reasons for a decision may be summarized or remain confidential.³⁴⁰ All decisions are published on the TRB's website.³⁴¹ The website entry includes the date on which the report was issued or the admission was accepted by the teacher, the name of the teacher, and a summary of the decision. All entries since 2013 include a copy of the Consent Resolution Agreement or the written reasons of the panel. Unlike PCTIA, there is no time limit for the posting of disciplinary decisions or consent resolution agreements. The TRB's website also posts archived decisions made by the British Columbia College of Teachers, which was responsible for regulating the teaching profession from January 1, 1988, to January 9, 2012.³⁴²

³³⁷ Commissioner for Teacher Regulation, *Annual Report 2012/13*, 11 <http://www.bcteacherregulation.ca/documents/FormsandPublications/AnnualMeetings/CTR_annual_rpt_2012_2013.pdf>.

³³⁸ *Teachers Act*, S.B.C. 2011, c. 19, s. 64(a).

³³⁹ *Teachers Act*, S.B.C. 2011, c. 19, s. 54(1) and 66(2).

³⁴⁰ If making the written reasons or a consent resolution agreement public would cause significant hardship to a person harmed, abused or exploited by the teacher being disciplined, they may be made anonymous or remain confidential: *Teachers Act*, S.B.C. 2011, c. 19, s. 54(3)(a), 54(3)(b), 66(4)(a) and 66(4)(b).

³⁴¹ Ministry of Education, Teacher Regulation Branch, "Discipline Decisions" <<https://www.bcteacherregulation.ca/ProfessionalConduct/DisciplineDecisions.aspx>>.

³⁴² Ministry of Education, "Searchable Discipline Database" <<https://www.bcteacherregulation.ca/ProfessionalConduct/SearchDisciplineDecisions.aspx>>.

Publishing all enforcement actions against private career training institutions, whether they result in suspensions, cancellations or the imposition of conditions, is an important student protection tool. Making these decisions public and posting them in an easily accessible place provides current and prospective students and the public with information about an institution's past and ongoing compliance with the Act, the Regulation and the bylaws.

The reasons PCTIA has published on its website about suspension or cancellation decisions have not consistently provided the public with enough information to clearly identify the impact on students. Publishing full written reasons for decisions provides the public with sufficient information to know when and why enforcement action was taken against an institution, and, if the institution is suspended, what it needs to do to be reinstated.

Students can make more informed decisions if they can access an institution's entire compliance history, including any conditions that have been imposed. Furthermore, the public has an interest in knowing what enforcement action has been taken in response to institutional non-compliance. As we learned during our investigation, government bodies such as WorkSafeBC may use PCTIA's website to obtain information about an institution when considering retraining for a worker. For WorkSafeBC staff, having access to all enforcement information, including conditions, would be a useful tool that may help to inform their decision making. This is in the interests of both workers and taxpayers.

Of course, some enforcement action will be of more interest to students than others. Under the current framework, PCTIA imposes conditions for a range of infractions, from the failure to submit a report on time to infractions that have a direct impact on students. It may not be desirable to always include enforcement measures unrelated to student protection. To address this, and to be fair to institutions, the oversight body should develop a rating system for non-compliance based on the impact of non-compliance on students. The oversight body could then use this rating scale in conjunction with the publication of compliance information to highlight the non-compliance most likely to affect students in a way that is more useful than the current bold type.

Furthermore, removing enforcement information after five years can give students and the public the impression that an institution has never had compliance issues (or, as the current wording on PCTIA's website may imply, has had compliance issues in the past) when this may not be the case. The Teacher Regulation Branch protects students by posting all disciplinary decisions indefinitely. The body overseeing private career training institutions can ensure transparency and accountability by providing the public with all available enforcement decisions, and the public can decide how much weight to give older decisions.

Publishing all enforcement actions against private career training institutions is an important student protection tool.

Findings and Recommendation

- F19** The Private Career Training Institutions Agency only publishes information about enforcement decisions that result in an institution's registration or accreditation being suspended or cancelled, and does not publish enforcement decisions more than five years old.
- F20** Until 2013, the Private Career Training Institutions Agency (PCTIA) provided inadequate public information about the reasons for its enforcement decisions and any impact the decisions may have on students. Since 2013, PCTIA has provided inconsistent public information about the reasons for its enforcement decisions.
- R22** The Ministry of Advanced Education require the private career training institutions oversight body to:
- (a) publish all enforcement decisions on its website, including the reasons for the decision
 - (b) clearly describe any impact each enforcement decision may have on students and publish this on its website
 - (c) maintain enforcement decisions, reasons and descriptions of the decisions' impact on students on its website indefinitely
-

Notice to Current Students

Posting enforcement decisions on an oversight body's website is an important way to provide information to the public. However, current students need more direct and immediate information about any enforcement action taken against their institution.

Currently, closure of an institution due to the cancellation of its registration is the only circumstance in which PCTIA directly contacts students to inform them of an enforcement decision. In the event of an institution's closure due to the cancellation of its registration, PCTIA told us that it posts a notice at the institution and, where possible, arranges to speak with students directly. Using student contact information seized from the institution, PCTIA also emails or phones affected students to explain their options. Students at a closed institution may apply to the Student Training Completion Fund (STCF) for a refund of tuition fees for the uncompleted part of their program. The STCF funds may be paid directly to them or to a new institution, if students are able to complete their training elsewhere (this is known as a "teach out"). Students have one year to seek a refund if their institution closes. This process of notifying students, while an important student protection tool, is not authorized or required in the Act, the Regulation or the bylaws.

In all other cases, including suspension of registration, suspension of accreditation and cancellation of accreditation, PCTIA posts the enforcement decision on its website where students must seek it out. This is the case even when students may be directly affected by, or interested in, enforcement action short of closure. For example, students at non-accredited institutions are not eligible for British Columbia student loans, so a loss of accreditation may affect their ability to obtain student loans to complete the rest of their program and their ability to repay the loan. Furthermore, students at all institutions have a direct interest in knowing if an institution has been suspended for reasons relating directly to student protection.

The Ministry of Advanced Education can better protect current students at institutions by developing clear requirements and processes to directly notify current students of decisions to suspend or cancel an institution's registration or accreditation.

Finding and Recommendation

F21 The Private Career Training Institutions Agency does not adequately inform current students of all its suspension and cancellation decisions and how such decisions may affect the students.

R23 The Ministry of Advanced Education require the private career training institutions oversight body to immediately and directly notify all current students of any decision to suspend or cancel an institution's registration or accreditation and provide the students with:

- (a) in the case of a decision to cancel registration, a written explanation of how students can seek a tuition refund and pursue any teach-out options
- (b) in the case of a decision to suspend registration or to suspend or cancel accreditation, a written explanation of how this decision will affect students





Why Are Student Complaints Important?

A timely, accessible and effective complaints process offers both students and institutions the opportunity to resolve complaints about a variety of issues that directly affect the quality of students' education. By providing timely and thorough responses to student complaints, institutions can improve the quality of services provided, and reduce the likelihood that problems will disrupt students' education or cause further problems for the institution in the future. Students, as the recipients of services, are in a good position to observe the activities of an institution and see when something goes wrong. In this way, a student complaint process is also a form of monitoring, providing institutions and oversight bodies with information that may not be captured by traditional monitoring processes. The importance of complaints in bringing to light non-compliance is reflected in the bylaws of the Private Career Training Institutions Agency (PCTIA). They require the board to retain complaint files for seven years and give the board the power to "renew its consideration of the matter for whatever action may be appropriate" if a number of individual complaints suggest a "significant lack of compliance that was not evident from a single Complaint."³⁴³

Existing Student Complaints Process

With limited exceptions, a student attending a private career training institution must first attempt to resolve any complaints with the institution itself.³⁴⁴ If not satisfied with the institution's response, a student can only make a complaint to PCTIA only if he or she claims to have been misled by the institution about an aspect of his or her program and the student wants a tuition refund.

PCTIA considers whether the student has been misled and, if so, the amount of any tuition refund the student might be entitled to through the Student Training Completion Fund. A student who has a complaint that does not fall into this category can contact PCTIA, but there is no requirement for PCTIA to respond to the student's concerns unless the student completes a complaint form.³⁴⁵ These forms are designed specifically for students who are requesting a tuition refund.

³⁴³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.24. This provision has been in place since 2009. Until 2012, there was no limit on the amount of time the agency was required to retain a complaint file.

³⁴⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.3. The exception is spelled out in the bylaws: "If the Complainant provides evidence that indicates problems with a registered institution's dispute resolution process, including excessive delay, the Agency may, at its discretion, choose to accept a Complaint immediately." This requirement has been in place since the 2009 version of the bylaws, although it has been significantly modified. In 2009, it read: "Students must attempt to resolve concerns and complaints through all means available, including the institution's internal dispute resolution process, before submitting a Complaint to the Agency. Therefore, the Agency's usual practice is not to accept a Complaint where a Complainant has not exhausted the internal remedies available under the institution's dispute resolution policy or that is being pursued by the Complainant in another forum. However, if there is substantial, credible evidence that indicates systemic problems with a registered institution's dispute resolution process, including excessive delay, the Agency may, at its discretion, choose to accept a Complaint immediately." Private Career Training Institutions Agency, revised bylaw, 10 February 2009, Part VII, s. 35(3).

³⁴⁵ Bylaw 44.6 states: "An individual may make an inquiry regarding complaint procedures or about issues or concerns that could be considered complaints; however, the Agency's response and its obligations to meet the specific timelines outlined in these procedures will begin only after a Complainant submits a Complaint by filling out the appropriate form." Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.6.

In this section of the report, we focus first on PCTIA's oversight of the complaints processes at institutions, and second on the adequacy of PCTIA's own complaints process.

Student Complaints Processes at Institutions

It is not unreasonable to expect that students attending private career training institutions attempt to resolve any concerns or complaints with their institution before contacting PCTIA. Institutions have direct ongoing contact with students, and are therefore in a good position to respond to student concerns quickly and comprehensively. They also have an interest in and a responsibility to address student concerns and complaints.

Under PCTIA's bylaws, institutions must have a "fair, reasonable and effective written policy and procedure" governing dispute resolution processes for handling students' complaints and grade appeals.³⁴⁶ In the version of the bylaws effective in 2009, institutions were required to have a "fair, timely, reasonable and effective process for handling students' complaints and academic appeal."³⁴⁷ The requirement for a "timely" process was later removed from the bylaws. The current requirement is part of the basic education standards that all institutions are required to meet as a condition of registration. Institutions must provide a student with a copy of their student dispute resolution policy and procedure before entering into any contract with them.³⁴⁸ Institutions must also keep a record of all complaints in a student's file, but are not required to track how many complaints they receive or how well the dispute resolution process operates.³⁴⁹

Requiring only that complaints processes be "fair, reasonable and effective" allows institutions significant flexibility to determine their own dispute resolution processes. PCTIA has, however, developed a sample dispute resolution process, which is posted on its website, but it is not mandatory for institutions to follow it.³⁵⁰ PCTIA has also established student dispute resolution guidelines.³⁵¹ The guidelines focus on timelines and the efficiency and clarity of the student dispute resolution process. They suggest that processes should have a maximum of four to five steps and clear and reasonable timelines. According to the guidelines, an institution should provide its response to a student complaint no more than 10 days after receipt of the complaint, no more than 10 days should pass between each step, and the entire process should not take more than 21 days (the guidelines do not state whether these should be business or calendar days). PCTIA recommends, but

Institutions have direct ongoing contact with students, and are therefore in a good position to respond to student concerns quickly and comprehensively.

³⁴⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 26.5.4. As currently worded, this bylaw has been in place since October 1, 2012.

³⁴⁷ Private Career Training Institutions Agency, revised bylaw, 1 June 2009, Part V, s. 20(1)(j) and 24(1)(d).

³⁴⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 26.6.2. This requirement does not apply if the institution is providing short duration programs (programs where the tuition or duration of training is less than \$1,000 or 40 hours); in that case, the institution is required only to "demonstrate that ... the student has been provided with information on how to access copies of the institution's dispute resolution/grade appeal policy." Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 26.7.2.

³⁴⁹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 27.1.1.5. Institutions have been required to keep a record of all "written complaints" received by the institution since the June 1, 2009, version of the bylaws; this is narrower than the current requirement to keep a record of all complaints. Private Career Training Institutions Agency, revised bylaw, 1 June 2009, Part V, s. 20(1)(j)(ii).

³⁵⁰ Private Career Training Institutions Agency, *Student Dispute Resolution and Grade Appeal Policy and Procedure Sample*, 7 April 2014 <[http://www.pctia.bc.ca/resources/Sample%20Policy%20Student%20Dispute%20Resolution%20Policy%20Guidelines%20INS_160_022.docx](http://www.pctia.bc.ca/resources/Sample%20Policy%20Student%20Dispute%20Resolution%20and%20Grade%20Appeal%20INS_160_023.docx)>.

³⁵¹ Private Career Training Institutions Agency, *Student Dispute Resolution Policy Guidelines*, 21 April 2014 <http://www.pctia.bc.ca/resources/Sample%20Policy%20Student%20Dispute%20Resolution%20Policy%20Guidelines%20INS_160_022.docx>.

The absence of specific mandatory guidelines has created difficulties in enforcing minimum standards for complaints processes.

does not require, that an institution's policy should include a reference to PCTIA's complaint process, along with PCTIA's contact information, and that any reference to mediation cannot preclude a student from complaining to PCTIA. While these are useful and important suggestions, PCTIA's student dispute resolution guidelines are not binding.

PCTIA's own experience shows that the absence of specific mandatory guidelines has created difficulties in enforcing minimum standards for complaints processes. PCTIA staff acknowledged during our investigation that the requirement for a "fair, reasonable and effective written policy and procedure" for student disputes and grade appeals is vague and difficult to enforce. As a result, PCTIA's main focus in monitoring an institution's student dispute resolution policy is whether that policy has too many steps or is too complicated.

PCTIA does not require institutions to provide it with copies of any revisions to their complaint policies. PCTIA may ask for the current policy as part of a site visit or if it receives a student complaint, but does not request this on a routine basis. This means that a complaint policy assessed by PCTIA at the time of registration as being fair and reasonable may undergo significant changes unknown to PCTIA and may no longer be assessed as fair and reasonable. Institutions are free to make changes to their complaints policy without seeking PCTIA's input or approval.

Review of Institutions' Internal Dispute Resolution Policies

During our investigation, we reviewed the dispute resolution policies from 15 institutions registered with PCTIA. The policies were from institutions of varying sizes, offering programs from yoga instructor training to trades to health care assistant and office administration certificates.

Our review showed that the lack of mandatory requirements has led to a wide variation between different complaints policies. As a result, students have access to inconsistent processes and protections. For example:

- Only five of the 15 policies (33 per cent) mentioned PCTIA's oversight role in the dispute resolution context.
- None of the 15 policies stated that a student making a complaint would not be subject to retaliation. One policy included a statement forbidding students from contacting any governing bodies regarding their complaint.
- Nine of the 15 policies (60 per cent) did not establish clear time frames for completing the complaints process. On the other hand, some policies contained stringent timelines for specific steps in the process with no discretion to extend that timeline if, for example, the student needed more time to provide additional information.
- Eight of the 15 policies (53 per cent) did not include a requirement for the institution to maintain written records of the complaint.
- Two of the 15 policies (13 per cent) did not require the institution to provide a written response to the student. Of the 13 institutions whose policies did require a written response to a complaint, only two specifically required that the decision-maker at the institution provide a written explanation of the institution's decision.
- Only one of the policies mentioned any kind of audit or review process for complaints to ensure that they were being handled consistently and in accordance with policy.

Comparison with Complaints Process Requirements in Other Provinces

Ontario has taken a different approach to complaints processes at institutions. The *Private Career Colleges Act, 2005* requires all institutions to develop a student complaints procedure that includes procedures and rules set out in regulation.³⁵² All institution complaints processes in Ontario must:

- identify who is responsible for dismissing or taking further action in relation to a complaint
- provide a student with an opportunity to make oral submissions on a complaint, with another person present at all times if the student chooses
- describe how a complaint and any resulting decisions will be recorded
- describe time frames for responding to a complaint
- require that the institution provide a student with a written decision stating reasons
- outline a process for reviewing a decision
- require the institution to maintain a record of every complaint for at least three years and provide a copy of the complaint record to the student³⁵³

Institutions must include a copy of the student complaint procedure with every student contract.³⁵⁴ Ontario also requires the superintendent, who has a role similar to PCTIA's registrar, to approve every institution's complaint resolution process before it is effective. Ontario also requires an institution to report any changes to its process to the superintendent.³⁵⁵

Nova Scotia has similar, although less detailed, requirements for private career training institutions. Institutions in that province must have a complaints resolution policy that sets out the process for making and receiving a complaint, the person to whom a complaint must be made, the process to be followed when a complaint is received, and how a complaint and its resolution will be recorded.³⁵⁶

Analysis

Ensuring that all private career training institutions have timely, accessible and fair internal student complaints policies and procedures is an important aspect of student protection. The vagueness of the current bylaw means that there can be many different interpretations of what constitutes a "fair, reasonable and effective" complaints policy. Such ambiguity creates inconsistencies and does not benefit students. PCTIA's focus in reviewing institutions' policies is mainly on timelines and the number of steps in the complaints process (although the requirement that a complaints process actually be "timely" was removed when the bylaws were amended in 2012).

Private career training institutions differ in size, organizational structure and program areas. Requiring consistent elements in student complaint policies increases the likelihood that all student complaints are responded to appropriately, reasonably, in a timely manner and fairly. As our review of dispute resolution policies demonstrated, in the absence of clear legislated requirements, there are significant

³⁵² *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Schedule L, s. 31.

³⁵³ *Private Career Colleges Act, 2005*, O. Reg. 415/06, *General*, s. 36(1).

³⁵⁴ *Private Career Colleges Act, 2005*, S.O. 2005, c.28, Schedule L, s. 31(3).

³⁵⁵ *Private Career Colleges Act, 2005*, O. Reg. 415/06, *General*, s. 36(3) and (4).

³⁵⁶ *Private Career Colleges General Regulations*, N.S. Reg. 97/99, s. 13.

differences between institutions' policies. Existing requirements are not enough to ensure a consistent and fair internal complaints process exists at all institutions.

Having a policy that, on its face, is fair and reasonable is only the first step for an institution. By tracking complaints and reporting them to the oversight body, institutions can demonstrate that they are responding fairly, reasonably and in a timely manner to student complaints. With this information, the private career training institutions oversight body can better monitor an institution's student complaint policy, assess the policy's effectiveness in responding to student complaints and address any deficiencies. Complaint reporting is also another way for the oversight body to assess whether the institution has other compliance issues that need to be addressed.

Findings and Recommendations

F22 The Ministry of Advanced Education has not established any specific and binding requirements that private career institutions must follow when developing and implementing a student complaint resolution policy.

R24 The Ministry of Advanced Education establish in regulation that all private career training institutions develop and implement a student complaint resolution policy and that the institution policy includes, at a minimum:

- (a) reasonable time frames for responding to all complaints
- (b) that institutions provide students an opportunity to be heard before a decision is made
- (c) that institutions provide students with a written decision and reasons on the outcome of their complaint
- (d) that students be informed in writing of their options if they are not satisfied with the institution's complaint resolution process or response to their complaint
- (e) that students be provided written confirmation that they will not be subject to any retaliation as a result of their complaint
- (f) that institutions maintain detailed records of each complaint and how it was handled

F23 The Ministry of Advanced Education does not require private career training institutions to notify, or obtain approval from, the Private Career Training Institutions Agency before making changes to student complaint resolution policies.

R25 The Ministry of Advanced Education require all private career training institutions to notify, and obtain approval from, the private career training institutions oversight body before making any changes to student complaint resolution policies.

F24 The Ministry of Advanced Education does not require private career training institutions to report information about complaints to the Private Career Training Institutions Agency.

R26 The Ministry of Advanced Education require all private career training institutions to report annually to the private career training institutions oversight body on the number of student complaints received, the nature of the complaints and the outcome of the complaints.

Types of Complaints Accepted

One of the stated objectives of PCTIA is to provide consumer protection to students. A student who is dissatisfied with the way an institution has responded to his or her complaint will find that “consumer protection” options are limited because of the bylaws that the PCTIA board has drafted. PCTIA will only consider a student’s complaint if the student is seeking a tuition refund because he or she had been misled by the institution they attend.

The student complaint process that evolved under the former PCTIA board is narrowly defined. The *Private Career Training Institutions Act* makes no reference to student complaints, and the board’s bylaw-making powers under the Act do not specifically include the power to establish a complaints process. Instead, the Act authorizes the board to provide for the general administration and operation of PCTIA, including establishing a process for tuition refunds.³⁵⁷

Although the term “complaint” is defined under the bylaws as meaning “any specific concern that a complainant has regarding the provision of training or instruction or any other services provided by an institution,”³⁵⁸ the Act only authorizes the board to issue tuition refunds as the sole solution, and only in limited circumstances.³⁵⁹ The board, through the establishment of bylaws, created a complaint resolution process where, unless a student requests a tuition refund, PCTIA will not consider contact from a student as a complaint.³⁶⁰ In other words, the PCTIA board has excluded everything except requests for tuition refunds from its definition of complaint and from its complaints process. Any other complaints in which students are not seeking a tuition refund are treated only as concerns about an institution’s compliance and are dealt with informally through PCTIA’s compliance monitoring processes.

Close to 50,000 students attend private career training institutions in British Columbia each year. The number of “complaints,” as defined by PCTIA, that the agency receives is, in contrast, relatively low. There have been an average of 57 per year, representing just 0.1 per cent of enrolled students. There may be several reasons for this, including the narrow focus of the existing complaints process and students’ lack of awareness of the oversight body. Table 11 shows the number of student complaints received by PCTIA over the last five fiscal years and how PCTIA has responded to those complaints.

³⁵⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(q).

³⁵⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.3.

³⁵⁹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 15.

³⁶⁰ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.6.

Table 11: Number of Student Complaints Received by PCTIA

Fiscal year	Number of complaints filed with PCTIA*	Number of complaints dismissed by the board	Number of complaints accepted by the board	Number of complaints resolved before a decision by the board	Number of complaints not accepted by PCTIA**
2009/10	52	1	3	15	1
2010/11	82	32	15	21	7
2011/12	51	18	20	25	10
2012/13	59	18	15	11	11
2013/14	43	10	27	5	9
TOTAL ***	287	79	80	77	38

* As defined by the Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.2.2.

** Reasons that a complaint is not accepted include lack of jurisdiction, the events being complained about occurring before the introduction of a complaints process in the bylaws, complaints being filed outside the limitation period, or incomplete information from the complainant.

*** Not all complaints received in a given fiscal year are fully processed in the same year, which is why the number of complaints dealt with does not equal the number received.

The Act specifies the situations under which the board may authorize payments from the Student Training Completion Fund (STCF). According to the Act, payment can be made from the STCF to a student for:

- tuition fees for the uncompleted part of a program if a registered institution ceases to operate
- a portion of the tuition fees paid if, in the opinion of the board, the institution has misled a student regarding the institution or any aspect of its operations³⁶¹

The second ground for requesting a tuition refund – that the student was misled – has been in place since June 1, 2009, and is the focus of the complaints process set out in PCTIA's bylaws.

Types of Complaints Not Accepted

Although not considered in the formal complaints process, students still contact PCTIA with complaints about an institution that do not involve a request for a tuition refund. In these cases, PCTIA may initiate a review of an institution's compliance with the Act, Regulation or bylaws if the complaint identifies a compliance concern. Following a review, PCTIA may:

- determine no further action is required
- follow up with the institution by telephone or letter if it believes the institution has misunderstood the bylaws
- conduct a site visit, which may be unannounced, to monitor the institution's compliance

For complaints not involving tuition refunds, PCTIA focuses on bringing the institution into compliance with the Act, the Regulation and the bylaws and will not communicate the outcome of any follow-up steps to the student who made the complaint. This means that unless a complaint goes through the formal complaint process (which happens only if the student is seeking a tuition refund), a student is

³⁶¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s.15. PCTIA told us that the board would only have the authority to issue a refund if a student was misled by an institution that promised a program component it did not deliver.

not made aware of any steps taken in response to the complaint, including whether it resulted in any enforcement action.

Consequently, students who are not specifically looking for a tuition refund are deprived of a means of finding out whether their concerns are valid, whether there is a way to resolve the complaint, or whether enforcement actions are being taken. Since PCTIA focuses on the institution's compliance rather than on the student's concern, there is no guarantee that PCTIA will seek a specific solution for a student's complaint, even if PCTIA finds that complaint to be valid. As the following case summary demonstrates, students who believe they have been treated unfairly by an institution have no option but to state that they have been misled, if they wish to have the issue they raise treated as a complaint.

Case Summary

A student was expelled from a private career training institution after the institution investigated a complaint made about him by another student. The student was aware the complaint had been made, but did not have an opportunity to respond to the allegations or the information gathered by the institution before he was informed of the expulsion. The student said that based on the institution's policies, he expected a certain process would be followed in responding to the other student's complaint. In particular, he said he expected that he would have an opportunity to present his side of the story to the institution before a decision was made. The institution confirmed that this did not happen.

Since the institution deprived the student of an opportunity to be heard – a fundamental principle of administrative fairness – the student had few options. The only solution available to him was to pursue an application to PCTIA for a tuition refund, arguing that he had been misled by the institution in how its dispute resolution policy would be applied. The board dismissed the complaint on the basis that there was no evidence the complainant was misled. Even if it were to find that the institution had misled the student, however, the board did not have the power to require the institution to apply its student complaint resolution policy differently, or to reconsider its decision to expel the student. It only had the ability to refund part or all of the student's tuition.

In another complaint we reviewed in PCTIA's files, the board did consider whether an institution's internal dispute resolution policies had been applied fairly when a student was dismissed from an institution. The board concluded that they had not, and authorized the student's tuition to be fully refunded. The board's decision focused entirely on the fairness of the process followed by the institution, and contained no analysis of whether the student had been misled. A reconsideration requested by the institution resulted in the board reconfirming its earlier decision, again with no explanation of how the student was misled. While this approach to the complaint benefited the student, the lack of analysis of whether the student was misled raises serious questions about whether the board's decision was consistent with the legislation. Such problems could be addressed by broadening the scope of the complaints process in the legislation.

Students who are not specifically looking for a tuition refund are deprived of a means of finding out whether their concerns are valid, whether there is a way to resolve the complaint, or whether enforcement actions are being taken.

Comparison with Complaints Processes in Other Provinces

During our investigation, we looked at the processes available to students at private career training institutions in other provinces.

In Ontario, a student who is not satisfied with how a private career training institution has responded to his or her complaint “may refer the matter to the Superintendent.”³⁶² To do so, the student can complete a complaint form available on the Ministry of Training, Colleges and Universities’ website, which regulates private career training institutions in Ontario. The two-page complaint form asks the student to describe the nature of his or her complaint and the resolution sought from the private career training institution. Neither the legislation nor the regulations specify the kinds of decisions that the superintendent can make in response to a student complaint, but the complaint form states that the information provided by the student will be used by the ministry to “review and attempt to resolve the disagreement” between the student and the school “in order to determine whether the school is in compliance with the Act and the regulations.”³⁶³

In Nova Scotia, a student or operator who has been unable to resolve a dispute on their own or with the assistance of the ministry responsible may request that the minister appoint a mediator to settle the dispute.³⁶⁴ The regulation does not limit the types of disputes that may be handled in this way.

In Alberta, the Director of Private Vocational Training may require an institution to take the corrective measures “that the Director considers appropriate in the circumstances,” including, but not limited to, refunding tuition or delivering training to the student.³⁶⁵

These examples demonstrate that other provinces have adopted student complaints processes that are more responsive than British Columbia’s, in terms of the breadth of complaints accepted and the solutions available to students.

Comparison with Public Colleges in British Columbia

Equal protection of the interests of students at public and private post-secondary institutions is a fundamental principle of fairness. This does not mean that the processes at public and private institutions need to be identical, but, rather, that there are certain standards and protections for students that should be common to both types of institutions.

The need for equal protection is particularly important when dealing with student complaints. It is common in British Columbia for a similar program to be offered at both public and private institutions. A student taking a practical nursing program at a private institution should not have fewer avenues of recourse for his or her complaint than a student at a public college. With this in mind, we compared the protections available to students at private career training institutions with existing protections for students at public colleges.

Public colleges in British Columbia are governed by a board (of whom two members are elected students) and an education council (of whom 4 of the 20 voting

The need for equal protection is particularly important when dealing with student complaints.

³⁶² *Private Career Colleges Act, 2005*, O. Reg. 415/06, s. 36(2).

³⁶³ Ministry of Training, Colleges and Universities, “Student Complaint Form” <http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/AttachDownload?openagent&TM=1_17_2013_11_40_56_AM&ENV=WWE&NO=022-58-1399E&SEQ=2&VER=8>.

³⁶⁴ *Private Career Colleges General Regulations*, N.S. Reg. 97/99, s. 14.

³⁶⁵ *Private Vocational Training Regulation*, Alta. Reg. 341/2003, s. 20.

members are elected students).³⁶⁶ Under the *College and Institute Act*, the education council has the “power and duty” to set policies and procedures for academic appeals by students and to establish a final appeal tribunal for these appeals.³⁶⁷ In addition, a student who is suspended from an institution for just cause has a legislated right to appeal that decision to the board.³⁶⁸ A student who claimed he had been unfairly expelled from a public college or university would be able to raise his concerns through the public college’s appeal process. Generally, public colleges are large enough that a student complaint is likely to be heard by someone who was not involved in the original decision. For example, one public college has a multi-level grade appeal process: a student deals first with the instructor, then the department chair, then the dean. If not satisfied with this outcome, the student can appeal to the vice president academic who may convene a panel to hear a final appeal. If a panel is convened, it will include both students and college personnel. Many public colleges and universities in British Columbia also have an internal ombuds office where students can go if they believe they have been treated unfairly. Finally, if a student believes that a public college has not responded adequately to his or her complaint, the student can contact the Office of the Ombudsperson, which has the jurisdiction to investigate complaints about all public colleges and universities in British Columbia.³⁶⁹

Students at private career training institutions can have no confidence that a similar body will hear their complaint. Smaller private career training institutions may not have the size or the operational hierarchy to offer more than one level of appeal; in some cases, the owner, instructor and educational administrator may be the same person. This highlights the importance of students at private career training institutions having access to a decision-maker separate from the institution. Ensuring that students can bring their complaints to an impartial oversight body is a way of achieving equal protection of students at public and private institutions.

Ensuring that students can bring their complaints to an impartial oversight body is a way of achieving equal protection of students at public and private institutions.

Analysis

In his 2008 report on PCTIA, John Watson found that the existing complaints framework, because it was limited to cases where students sought tuition refunds, was too narrow to provide adequate protection to students. He recommended a formal mechanism through which PCTIA could resolve student complaints, be they financial, academic or administrative.³⁷⁰ Despite this, the complaints process at PCTIA continues to be narrowly focused on tuition refund requests. Students who contact PCTIA with other concerns may not receive a response to their inquiry, even if it results in PCTIA taking enforcement action against the institution.

The oversight body’s student complaints process should, at a minimum, respond to three key types of student complaints:

- complaints related to the quality of education and the way in which a program is delivered
- complaints related to the institution’s compliance with the oversight body’s legislation, regulations and other requirements
- complaints related to the institution’s application of its own internal policies and procedures

³⁶⁶ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 9(1)(e) and s. 15(1)(c).

³⁶⁷ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 24(2)(e).

³⁶⁸ *College and Institute Act*, R.S.B.C. 1996, c. 52, s. 37.

³⁶⁹ *Ombudsperson Act*, R.S.B.C. 1996, c. 340, Schedule, s. 25.

³⁷⁰ John A. Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008).

A complaints process that requires the oversight body to review, investigate and respond to these types of student complaints protects students by allowing them to seek assistance through an impartial body not connected to the institution. It also provides an incentive for institutions to develop effective internal complaints policies and reduce the likelihood that students will need to turn to the oversight body for assistance. Of course, an oversight body responsible for responding to all student complaints would need to ensure it has an effective system for recording, tracking and responding to the complaints it receives.

The province of Ontario has established a complaints process that provides students who have not been able to effectively resolve their concerns with an institution the right to bring those concerns to the oversight body. Not every student who has a complaint about an institution wants a tuition refund. Some may just want improved facilities, a clearer explanation of a grading process or placement in a promised work experience program. If a student at a private career training institution in British Columbia is not able to resolve a concern directly with an institution, the student should have access to an external process where he or she can raise the complaint and seek an appropriate resolution.

It was a step forward when, in 2009, the *Private Career Training Institutions Act* was amended to at least allow students who have been misled by their institution to apply for a tuition refund. However, this solution is not broad enough to adequately cover the range of student complaints that exist. The private career training institutions oversight body needs broad powers to, where appropriate, seek resolutions to complaints that will allow students to be treated fairly by institutions and to complete the education they have spent time and money obtaining.

Finding and Recommendations

F25 The *Private Career Training Institutions Act* and the Regulation do not require the Private Career Training Institutions Agency to have a process for receiving, responding to and resolving student complaints that do not involve a request for a tuition refund.

R27 The Ministry of Advanced Education establish in legislation that students can make a complaint to the private career training institutions oversight body if they have been unable to resolve complaints with a private career training institution about:

- the quality of education or the way in which education is delivered
- an institution's compliance with the oversight body's legislation, regulations and other requirements
- an institution's application of its own internal policies and procedures

R28 The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process for receiving, investigating and responding to student complaints about:

- the quality of education or the way in which education is delivered
- an institution's compliance with the oversight body's legislation, regulations and other requirements
- an institution's application of its own internal policies and procedures

R29 The Ministry of Advanced Education establish in legislation that the private career training institutions oversight body may direct private career training institutions to take measures the oversight body has determined are appropriate to resolve student complaints made to the oversight body.

Complaints about Unregistered Institutions

It is illegal for an institution that provides training costing more than \$1,000 and lasting more than 40 hours to operate without registering with the Private Career Training Institutions Agency (PCTIA). Under the *Private Career Training Institutions Act*, an institution must be registered in order for PCTIA to refund a student from the Student Training Completion Fund for a portion of the tuition fees the student has paid.³⁷¹ Currently, a student at an unregistered institution cannot claim for a tuition refund.³⁷²

In one file we reviewed, a student complained to PCTIA that the institution she was attending was unregistered and was operating in contravention of the Act. The student complained that she had paid over \$12,000 in tuition for a certificate program but then withdrew partway through after being dissatisfied with what the program offered. When the student asked about a tuition refund, however, PCTIA confirmed that she was not protected by the legislation because she was at an unregistered institution. Eleven months after the student made her complaint, the institution finally registered with PCTIA. Notwithstanding this subsequent registration, the student could not make a claim for a tuition refund under the existing rules.

Analysis

Students attending unregistered institutions are particularly vulnerable because they are not protected by the legislation. PCTIA has not monitored unregistered institutions for compliance with basic education standards. Currently, students who have been misled by such institutions cannot request a tuition refund through the Student Training Completion Fund (STCF).

According to the Act and the Regulation, an institution must pay into the STCF in order to be approved for registration. A newly registered institution pays \$2,000 to PCTIA at the time of registration, and 1 per cent of the tuition received under each student enrolment contract during the previous month.³⁷³

Institutions found to have misled a student have to repay the STCF in the amount of any tuition refund that is paid out to students.³⁷⁴ It would be appropriate to extend this requirement to cover claims by current and former students against unregistered institutions that subsequently become registered. In this way, other institutions would not have to bear the costs, and students who have been misled by an unregistered institution that later registered would have some protections.

Students who attend or attended an unregistered institution should not be prevented from making a claim against the STCF simply because the institution was not registered when students were misled. Once an institution is registered, the oversight body should have the discretion to assess each complaint based on the circumstances, even if the institution was not registered at the time, issue a refund where appropriate, and recover those costs from the institution. This shifts

³⁷¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 15.

³⁷² This has not always been the case. Before 2004, private career training institutions were regulated under the *Private Post-Secondary Education Act*, R.S.B.C. 1996, c. 375 as repealed by *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 30(1). Under section 28(1)(a) of this Act, if an institution was not registered with the Private Post-Secondary Education Commission, upon the request of a student, the institution had to refund the total fees paid by the student within 30 days, and could not retain any portion as any type of fee.

³⁷³ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 4(3) and 5(2)(a).

³⁷⁴ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.1.

the responsibility from the innocent party – the student – to the institution, which should have been properly registered when it accepted tuition from the student.

Finding and Recommendation

F26 The *Private Career Training Institutions Act* and the Regulation do not allow students who attend or have attended unregistered institutions that subsequently register with the Private Career Training Institutions Agency to make a claim, on the grounds that they were misled, against the Student Training Completion Fund.

R30 The Ministry of Advanced Education establish in legislation that students who attend unregistered institutions that are subsequently registered are eligible to apply for and receive a tuition refund on the same basis as students enrolled in registered institutions.

PCTIA's Process for Responding to Complaints

Under PCTIA's bylaws, there is a defined process for responding to a student's request for a tuition refund on the basis that the student had been misled by an institution.³⁷⁵ PCTIA's bylaws define the term "misled" as:

... any oral, written, visual, descriptive, or other representation or omission made to a Complainant by an institution which is materially different from the actual services or instruction provided by the institution to the Complainant³⁷⁶

Students must complete a student complaint form setting out the grounds on which they were misled and the amount of the refund they are seeking. Students must also submit supporting documentation for their claim, which PCTIA then forwards to the institution for a response. After the institution responds, students have a further opportunity to reply. Once all the documentation is assembled, PCTIA staff prepare a factual summary of the complaint and a recommendation for resolution. This information is forwarded to the Student Complaint Committee, a subcommittee of the PCTIA board. If necessary, the committee can take steps to obtain further information about the complaint, including convening a hearing. The committee then reports to the board which can decide to:

- dismiss the complaint in whole or in part
- conclude the complaint is justified and authorize payment from the Student Training Completion Fund for tuition fees the student paid the institution
- make any other decision the board is authorized to make³⁷⁷

If the board authorizes a payment to a student on the grounds that the student was misled by an institution, the institution must reimburse the Student Training Completion Fund within 30 days.³⁷⁸ The functions of the board with respect to complaints are now administered by the Deputy Minister of Advanced Education.

³⁷⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.

³⁷⁶ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.2.3.

³⁷⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.20.

³⁷⁸ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.1.

Review of PCTIA Complaint Files

As part of our investigation, we reviewed 30 PCTIA complaint files, 10 each from fiscal years 2011/12, 2012/13 and 2013/14. These 30 files represented almost 20 per cent of the 153 student complaints (as defined by PCTIA) that were filed with PCTIA during this time period. The files were all cases in which students had requested a refund of their tuition on the grounds that they were misled by the institution they attended. PCTIA accepted 22 of the 30 complaints (73 per cent), and in 11 of the 30 cases (37 per cent), students successfully obtained a tuition refund. In one case, a refund was given only after a complainant asked the board to reconsider its original decision. On average, it took 83 business days (just under three months) for PCTIA to adjudicate a complaint.

Accessing the Complaints Process

Accessibility is a fundamental part of a fair and effective complaints process. Information about a complaints process should be accurate and should not dissuade a person from making a complaint. Any required complaint forms should be short, easy to complete, and not require complainants to cite legislation or other rules in support of their complaint. The body receiving the complaint should be prepared to make reasonable exceptions for cases where the required form is not completed or to assist a person if the form is not completed accurately.

Our initial concerns with the accessibility of PCTIA's complaints process arose during our institution file review. We came across letters to students in 2009 in which PCTIA had refused to accept the complaints because students had not completed the correct form. In one case, PCTIA had just amended the form the day before the student submitted her complaint. Because the student did not use the new form, PCTIA rejected her complaint. None of PCTIA's rejection letters invited students to resubmit their complaints on the correct form. In several cases, there was no further documentation on the file, indicating that the students had not pursued their complaint further.

Another barrier to accessing the complaints process was a fee authorized by the bylaws that PCTIA charged students for filing a complaint with the agency.³⁷⁹ On June 1, 2009, the same day that legislative changes allowing PCTIA to accept student complaints of being misled came into effect, PCTIA began charging a \$50 "complaint initiation fee." PCTIA told us that if it received a complaint without the required fee, the complaint would be put on hold until payment was received. Due in part to concerns that the fee discouraged complaints, it was removed from the bylaws six months later on November 19, 2009. While PCTIA said that it did not reject any complaints for failing to pay the fee, it is not possible to know how many students may have been deterred from even beginning the complaints process because of the fee.

There is, however, no evidence that these practices continued beyond 2009. Since then, PCTIA has taken steps to make the complaints process accessible, including:

- having a person on staff whose job is to assist students with the complaints process
- telling students, on the complaint form, that PCTIA will follow up with them if information is missing or incomplete
- removing, effective October, 1 2012, the provision in the bylaws requiring a student to cite the provision of the Act, the Regulation, the bylaws, the institution's policies or enrolment contract they believed had been violated

Accessibility is a fundamental part of a fair and effective complaints process.

³⁷⁹ Private Career Training Institutions Agency, revised bylaw, 1 June 2009, s. 51.7(b).

The Ministry of Advanced Education should ensure that the private career training institutions oversight body develops a complaints process that is accessible and provides accurate information to students.

However, the current complaint process could be made significantly more accessible. The complaint form is currently seven pages long (compared to two pages in Ontario, for example). For students, especially for those whose first language is not English, this is unnecessarily bureaucratic. The private career training institutions oversight body should work to make the complaint form shorter, which will make it easier to complete. The oversight body should also consider allowing students to make a complaint first by telephone or by using a web-based form. It should also take into account the various challenges students may face in making a complaint – linguistic, cultural or otherwise – and not take an overly formalistic or restrictive approach to incomplete forms. Rather, the oversight body should ensure it reaches out to students to obtain the information required to adequately review and respond to a complaint. In addition, the oversight body should have translation or interpretation services available to assist students whose first language is not English.

Furthermore, incorrect wording on PCTIA's website about the complaints process could dissuade a person from making a complaint. When we viewed it in August 2014, the website stated that “making a complaint against your institution is a serious matter,” which implies that it may have negative consequences for the student, when this should not be the case. The website also said that “complaints can be filed with PCTIA only after you have completed the school’s dispute resolution process ... if you have exhausted all the dispute resolution processes within your institution, you may file a complaint with PCTIA.” This statement is not fully correct, as the bylaws clearly provide for instances when students are not required to use an institution’s internal dispute resolution process. The bylaws state:

if the Complainant provides evidence that indicates problems with a registered institution’s dispute resolution process, including excessive delay, the Agency may, at its discretion, choose to accept a Complaint immediately.³⁸⁰

This is essential information that should be clearly set out on PCTIA’s website, as well as on the complaint form itself.

Analysis

The current complaints process is not fully accessible to students. It relies on students completing a lengthy form. The information on PCTIA's website is not accurate and may discourage legitimate complaints. Having an accessible complaints process will be particularly important if the scope of the complaints that the oversight body can accept is expanded. The Ministry of Advanced Education should ensure that the private career training institutions oversight body develops a complaints process that is accessible and provides accurate information to students.

Finding and Recommendation

F27 The Private Career Training Institutions Agency has not ensured its complaints process is accessible and provides students with accurate information.

R31 The Ministry of Advanced Education require that the private career training institutions oversight body:

- (a) develops and uses a student complaint form that is concise and is written in plain language

- (b) takes reasonable steps to assist students who may face challenges in making a complaint, including linguistic and cultural differences
- (c) provides accurate information about the complaints process on both its website and in the complaints form, including information about the role of the Office of the Ombudsperson
- (d) informs students that they should not face any retaliation as a result of making a complaint

An Administratively Fair Decision-Making Process

In *Baker v. Canada*, a 1999 decision of the Supreme Court of Canada, the court outlined five factors that determine the extent to which a public body owes a party a duty of fairness. These are:

- the nature of the decision being made and the process followed in making it
- the nature of the legislative scheme and the terms of the legislation under which the body operates
- the importance of the decision to the individual affected
- the legitimate expectations of the party challenging the decision
- the choices of procedure made by the administrative decision-maker³⁸¹

An analysis of these factors as they apply to the current *Private Career Training Institutions Act* leads us to the conclusion that the board – and any successor body – owes a high degree of procedural fairness to students in adjudicating their complaints. PCTIA’s legislation clearly describes its student and consumer protection role; providing tuition refunds and responding to complaints falls squarely within this mandate. The board has broad powers to receive and examine evidence and in adjudicating complaints performs a quasi-judicial role. Its decisions are not open to further administrative review or appeal except by a court or the Office of the Ombudsperson on the basis of administrative unfairness, but it can reconsider its own decisions.³⁸² The decision on a complaint is likely very important to the student affected.

The values underlying the duty of procedural fairness relate to the principle that individuals should have the opportunity to present their case fully and fairly, and have decisions affecting their rights, interests or privileges made using a fair, impartial and open process, appropriate to the statutory, institutional and social context of the decision. A significant decision such as a tuition refund request or suspension or expulsion from a program should attract a high level of procedural fairness when being adjudicated by an oversight body.

During our investigation, we found that the existing process for responding to student complaints was not consistent with procedural and administrative fairness. In the following sections, we highlight four areas where action should be taken to strengthen the complaints process: an impartial decision-maker, an opportunity for an oral hearing, the fair application of time limits, and the provision of adequate reasons.

³⁸¹ *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

³⁸² *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 16(4) and (5).

Any oversight body responsible for adjudicating student complaints should be set up to balance the interests of institutions with those of students and the public, and should, in practice, do so.

An Impartial Decision-Maker

Before its dissolution, a majority of PCTIA's board (and also the Student Complaint Committee) was composed of representatives from the institutions themselves. Under the *Private Career Training Institutions Act*, the board is ultimately responsible for adjudicating requests for tuition refunds and authorizing payments from the Student Training Completion Fund.³⁸³ A student making a complaint to the board would be dealing with a group of people making a decision on his or her complaint who clearly had direct connections to the management and operations of private career training institutions and the fund. Any oversight body responsible for adjudicating student complaints should be set up to balance the interests of institutions with those of students and the public, and should, in practice, do so.

Comparison with Ontario

In our investigation, we also looked at Ontario's model for governing and authorizing disbursements from its version of the Student Training Completion Fund. The Ontario regulation establishes an advisory board, which includes the superintendent and five to nine members appointed by the Minister of Training, Colleges and Universities.³⁸⁴ The minister must "use his or her best efforts" to ensure that the appointed members represent private career training institutions, students or former students of institutions, and persons with no affiliation to private career training institutions.³⁸⁵ The board makes recommendations to the superintendent regarding the guidelines that the superintendent may adopt regarding the payment of training completion costs and refunds, as well as the measures that should be taken if a particular institution closes.³⁸⁶ Ultimately, however, the decision about whether to make a particular payment remains with the superintendent, who is a public servant and not associated with private career training institutions.

Comparison with the Teacher Regulation Branch

Before 2012, the teaching profession in British Columbia was regulated by the British Columbia College of Teachers. A review of the college in 2010 found that it was unable to establish a proper balance between public interest and the more dominant interest of members.³⁸⁷ In response to the report, the government dissolved the college and, in January 2012, replaced it with the Teacher Regulation Branch (TRB), which is part of the Ministry of Education.

The TRB provides administrative support to both the BC Teachers' Council and the Commissioner of Teacher Regulation. The council includes eight teachers (three nominated by the BC Teacher's Federation and five elected from regions) and seven other provincial education stakeholders.³⁸⁸ The council sets the standards for teacher certification and professional conduct.³⁸⁹

The Commissioner of Teacher Regulation, who is a public servant appointed to the position for a five-year term, is responsible for teacher disciplinary matters.³⁹⁰

³⁸³ *Private Career Training Institutions Act*, S.B.C. 2003 c. 79, s. 15.

³⁸⁴ *Training Completion Assurance Fund and Other Financial Matters*, O. Reg. 414/06, s. 3.

³⁸⁵ *Training Completion Assurance Fund and Other Financial Matters*, O. Reg. 414/06, s. 3.

³⁸⁶ *Training Completion Assurance Fund and Other Financial Matters*, O. Reg. 414/06, s. 9.

³⁸⁷ Donald J. Avison, *A College Divided: Report of the Fact Finder on the BC College of Teachers* (Victoria: British Columbia Ministry of Education, 2010) <http://www.bced.gov.bc.ca/pubs/2010_factfinder_report_bcct.pdf>.

³⁸⁸ *Teachers Act*, S.B.C. 2011, c. 19, s. 9.

³⁸⁹ *Teachers Act*, S.B.C. 2011, c. 19, s. 10.

³⁹⁰ *Teachers Act*, S.B.C. 2011, c. 19, s. 2(2).

The commissioner accepts complaints and reports from the public and other stakeholders related to teacher conduct and competence, and assesses the complaints for any further action. If necessary, the commissioner forms a disciplinary panel of three members from the council (only one of whom can be a teacher) to hear a disciplinary matter.³⁹¹

While the regulation of teachers is one model of dealing with complaints, it must be kept in mind that it deals with individual instructors and not with school operations or administration and therefore different considerations may apply.

Analysis

When students take the significant step of requesting a tuition refund, they should be confident that the request will be heard and adjudicated by an impartial body. Similarly, if the student complaints process is expanded to include non-monetary student complaints, students should be assured that their concerns are being heard and responded to by an impartial body. In PCTIA's structure, decisions about access to the Student Training Completion Fund were made by the board. The composition of the board created the perception that decisions were not entirely impartial. The Ministry of Advanced Education should take steps to address this concern by ensuring that the body responsible for making decisions about all student complaints is independent and impartial.

Finding and Recommendation

F28 The composition of the Private Career Training Institutions Agency board and the board's responsibility for making decisions about student tuition refund requests did not adequately ensure that student requests for tuition refunds were heard by an independent and impartial decision-maker.

R32 The Ministry of Advanced Education establish in regulation that all student complaints are heard and decided by an independent and impartial decision-maker.

The Right to Be Heard

A student who requests a tuition refund submits a written application to PCTIA. The form is sent to the institution, after which the student has an opportunity to respond to the institution's submission.³⁹² The nature of the decision being made, in some cases a refund request of tens of thousands of dollars in tuition fees, raises questions about whether this process affords students an adequate opportunity to be heard. If the range of complaints that the oversight body can hear is expanded to include complaints about, for example, expulsion or unfair treatment, the circumstances under which an oral hearing may be required before a decision is made will also expand. An oral hearing is not necessarily an in-person hearing.

In PCTIA's process, staff review the complaint and any response from the institution, prepare a factual summary, and recommend a resolution to the Student Complaint Committee, a subcommittee of the PCTIA board.³⁹³ The committee may then, "if it considers that further information or investigation is necessary ... require a hearing

³⁹¹ *Teachers Act*, S.B.C. 2011, c. 19, s. 57.

³⁹² *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 8(1); Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 44.14.

³⁹³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.16.

Oral hearings are an effective way of ensuring that the decision-making body itself decides on the complaint.

be convened to obtain more information.”³⁹⁴ If a hearing is held, the bylaws provide that “each party shall be treated fairly and shall be given a fair opportunity to present its case.”³⁹⁵ In adjudicating a claim against the Student Training Completion Fund, the board had the power to “receive and examine evidence and information on oath or affirmation.”³⁹⁶ It was up to the board to determine whether an oral hearing was necessary to decide on a student’s request for a tuition refund.³⁹⁷

This process meant that it was entirely at the board’s discretion whether an oral hearing was held. In fact, the Student Complaint Committee has held no oral hearings on student complaints over the last five years. In our review of 30 PCTIA complaint files, only once did the board not accept the recommended resolution proposed by staff, often adopting the exact wording staff used in their reasons. This indicates that the option of obtaining more information by conducting further investigation into a complaint is not one the committee pursues. Oral hearings are an effective way of ensuring that the decision-making body itself decides on the complaint. It allows the student (or institution) to draw attention to particular issues and the decision-maker to ask questions to test and assess the credibility and reliability of the information being presented.

In summary, then, students making a complaint to PCTIA have no right or opportunity to request an oral hearing, no matter how significant the complaint. The board had no practice of holding oral hearings, and there was no administrative appeal process.

In contrast to the approach to dealing with complaints made by students against institutions, institutions disputing a decision made by PCTIA’s registrar (for example, a decision to suspend or cancel an institution’s registration) can appeal that decision to the board, whose functions have, since April 2014, been carried out by a public administrator. In most cases, that appeal is conducted through written submissions. Institutions can also request an oral hearing.³⁹⁸ There is no equivalent process in the bylaws for students making a complaint or for institutions responding to a complaint.

Analysis

Students requesting a tuition refund must prove that they have been misled by an institution. In many cases, this requires consideration of not only the written record but of the parties’ recollection of oral representations – for example, a student may contend that he or she was verbally promised a practicum and later discovered that practicums were not part of the program. Determining whether a verbal promise was made is one of a number of areas where the decision-maker may have to decide whether a student is truthful and credible. While not always required, an oral hearing is often an important part of determining credibility.

The outcome of a complaint and request for a tuition refund can have significant financial consequences for both students and institutions, which are required to repay the Student Training Completion Fund if found to have misled a student. Under the current system, the board’s decision is final.³⁹⁹ Earlier in this report, we

³⁹⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.17.2.

³⁹⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.18.1.

³⁹⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 16(2)(b).

³⁹⁷ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 8(2).

³⁹⁸ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part K, s. 47.10.5.

³⁹⁹ Although the board may reconsider its own decision: *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 16(5). In addition, students may seek judicial review of the decision or, if they believe they have not been treated fairly, contact the Office of the Ombudsperson.

recommended that the breadth of complaints that the oversight body can review be expanded. In some of the cases that would be accepted under an expanded complaints process – for example, dismissal from a program – a student’s ability to practice in his or her chosen career may be at stake. In such circumstances, the student may be able to more effectively make a case, and have his or her credibility assessed, in an oral hearing. Similarly, institutions responding to a complaint may wish to request an oral hearing in order to have an adequate opportunity to challenge a student’s assertions.

An oral hearing may be required before a decision is made on a complaint where:⁴⁰⁰

- a party’s credibility must be determined before a decision can be made
- the essential facts are in dispute and cannot be resolved through a review of documentary evidence
- a party faces considerable jeopardy, financial or otherwise

Students and institutions should have an opportunity to request an oral hearing in front of the decision-maker before a final decision is made. Such an opportunity would significantly enhance the fairness of the complaint process.

If a request for an oral hearing is declined, the oversight body should provide reasons for its decision. Of course, not all parties can attend a hearing in person, so the oversight body should establish procedures for using a conference call or videoconference in cases where an in-person hearing is impractical. As well, given the significant number of international students attending private career training institutions, the oversight body should be prepared to arrange for interpretation services at hearings when necessary.

Finding and Recommendation

F29 The Private Career Training Institutions Agency (PCTIA) bylaws establish a student complaint process that does not provide either students or institutions the right to an oral hearing where appropriate, or the opportunity to request an oral hearing on a student complaint to PCTIA.

R33 The Ministry of Advanced Education establish in regulation:

- (a) the situations in which a student or institution has a right to an oral hearing of a complaint to the private career training institutions oversight body
 - (b) that a student or institution may request an oral hearing in relation to any complaint being dealt with by the private career training institutions oversight body
 - (c) that if a request for an oral hearing is denied, the private career training institutions oversight body provides written reasons
-

Fair Application of Time Limits

Before its dissolution, PCTIA’s board could make bylaws specifying the procedures that must be followed in making a claim against the Student Training Completion Fund.⁴⁰¹ On this basis, the board established a six-month limitation

⁴⁰⁰ For an example in the post-secondary education context of an oral hearing being required where a student’s credibility was at issue, see *Khan v. University of Ottawa*, (1997) 34 O.R. (3d) 535.

⁴⁰¹ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 6(1)(r)(ii).

period for requesting a tuition refund in cases where a student was misled.⁴⁰² The bylaw reads:

A Complaint shall be filed with the Agency within six months of the date upon which the event complained about occurred or upon which the Complainant should reasonably have been expected to know about the matters in issue in the Complaint.⁴⁰³

This means that if the board determines a complainant knew or should have known that he or she was being misled more than six months before making a complaint to PCTIA, the complaint will be dismissed. This is the case even if there is clear evidence that the student was, in fact, misled.

Both PCTIA's website and the complaint form itself emphasize in bold print that there is a six-month time limit for filing a complaint. The complaint form asks the student to indicate the date on which the event occurred, but does not provide a space in which a student can explain why, if the event occurred more than six months ago, the student did not know then that he or she was being misled. This means that PCTIA or the board may be making decisions about time limits with incomplete information.

From 2009/10 to 2013/14, PCTIA rejected 10 complaints because they were filed outside the six-month limitation period. In our investigation, we came across examples of both PCTIA staff and the board dismissing complaints because they were outside the time limits. The following case summary illustrates how this provision has been applied by the board in practice.

Case Summary

The complainant attended an institution specializing in traditional Chinese medicine (TCM), graduating in May 2010. In the fall of 2010, the complainant learned through the media that her program was not recognized by the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia (which regulates the practice of TCM in the province). As a result, she could not practice TCM as she had intended. The complainant explained she had been told by the operator of the institution that she did not need to register with the college to practice in British Columbia. The operator encouraged her to instead register with a federal body, which, the complainant later learned, was established by the operator. The federal body had no authority to license TCM practitioners.

In November 2010, the complainant submitted a request for a tuition refund to PCTIA on the basis she had been misled by the institution. PCTIA's initial response was that it would not consider the complaint because the complainant had not filed it within the six-month time limit. PCTIA's board confirmed this decision. The board decided that the complainant should reasonably have known that she was being misled in September 2009, when the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia obtained an injunction against the purported federal regulatory body. The complainant had provided an affidavit in support of the federal regulatory body and the institution for the court hearing. The contents of the affidavit, however, indicated that the student did not know

⁴⁰² The legislation establishes a one-year time limit for claims against the Student Training Completion Fund in cases where an institution has closed: *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 16(b).

⁴⁰³ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.7.

at that time she was being misled. The complainant was not party to the lawsuit that resulted in the injunction and there is no indication that she was informed of the decision once it was made. Moreover, after the injunction was ordered, the institution's programs continued to run uninterrupted, so the complainant and other students may have had no reason to believe that something was amiss.

We investigated the process used by PCTIA to determine that it would not consider the complaint. Following our investigation, the complainant requested a further reconsideration of the board's decision to dismiss her complaint. In January 2014, the board determined that the complaint could be accepted and that the complainant was entitled to a refund of tuition fees in the amount of \$43,600.

Our office has received and investigated similar cases in which PCTIA dismissed, based on a strict time limit, otherwise valid complaints. In the cases we reviewed, PCTIA did not dispute that students had been misled by their institution. For various reasons, however, students did not file their complaints within the six-month time limit.

Time Limits for Filing Supporting Documents

All documents supporting the allegations in a complaint must be attached to the complaint form when it is filed.⁴⁰⁴ When reviewing student complaint files, we found that PCTIA had required students to provide all of the documentation necessary to support their complaint within the six-month time limit. PCTIA staff dismissed the complaints of students who did not provide the documentation because in their view, these students had not filed their complaint within the time limit. The PCTIA board did not and could not review these decisions.

Other administrative adjudicative bodies use shortened timelines for filing a claim. For example, the B.C. Human Rights Tribunal also has a six-month time limit for filing a complaint with discretion to accept complaints filed outside this time limit. To file within the time limit, a complainant need only submit the completed complaint form with the tribunal. Documentary evidence is not required until after the initial complaint has been screened by tribunal staff, and the respondent has filed a response to the claim. The complainant then has 35 days from the filing of the response to disclose his or her documentary evidence.⁴⁰⁵

Our investigation identified three main ways that the structure of PCTIA's complaint process made it difficult for complainants to file their complaints within the time limit.

First, as discussed above, the time limit for PCTIA's complaint process begins when a student has been misled, or reasonably should have known that he or she was misled by an institution. As well, complainants are in most cases required to exhaust their institution's internal dispute resolution processes before filing their complaint with PCTIA. There is no requirement for an institution to conclude its internal process within six months. This can leave a potential complainant with little, if any, time to file a complaint with PCTIA once the institution's internal process has concluded. In the files we reviewed, students also explained they had delayed initiating the complaint process until after they completed their programs either because they hoped the problem might be worked out or they feared the reaction of the institution.

⁴⁰⁴ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.8.5.

⁴⁰⁵ BC Human Rights Tribunal, *Rules of Practice and Procedure*, 15 July 2014, Rule 20(6).

The time limit on complaints set out in PCTIA's bylaws is problematic in both theory and practice.

Second, when filing a complaint, a student must determine which documents are needed to support a claim. Students who are unfamiliar with adjudicative processes may require some guidance on this matter. In the files we reviewed, PCTIA staff sometimes assisted students in determining what types of supporting documentation they would need to provide. However, when a complainant had difficulty acquiring those documents within the time limit, PCTIA staff did not allow more time. Staff also did not suggest alternative forms of supporting evidence or assist complainants in acquiring, or determining how to acquire, such documentation.

Third, acquiring documents can be a time-consuming process as students may need to obtain information from the institution, the student loan issuer or their bank. In those cases, a student has to rely on third parties to provide information in a timely way.

Analysis

The time limit on complaints set out in PCTIA's bylaws is problematic in both theory and practice. On a theoretical level, it requires students to provide all relevant information within six months, which may be difficult to do. In practice, the application of the timeline to individual complaints can result in a substantive injustice if the date when a student ought to have known they were being misled is not clear, but there is no opportunity for the student to make the case that they are within the timeline.

A specific time frame for submitting tuition refund requests is not unreasonable. The existing six-month time limit provides more certainty for the administration of the Student Training Completion Fund. In addition, a number of programs offered by private career training institutions are of a short duration. If students have concerns, they are likely to raise them soon after graduating if they have not done so earlier. However, PCTIA's complaints form does not give students an opportunity to explain why they are making a complaint after more than six months.

Similarly, while it is not unreasonable to establish timelines within which students must provide supporting documentation for their complaint, there are many legitimate reasons why students may not be able to file their complaint until close to or shortly after the six-month time limit. Requiring students to file all of their documentation at the same time, without exception, means that valid complaints may be dismissed because the documentation cannot be obtained within the prescribed time frame.

Other administrative bodies with similar short time limits have the discretion to accept complaints filed outside the time limit. The British Columbia *Human Rights Code* states that human rights complaints must be filed with the Human Rights Tribunal within six months of the alleged contravention. However, the tribunal may accept a complaint filed after six months if it is in the public interest to do so and there will be no substantial prejudice to any person because of the delay.⁴⁰⁶ This allows the tribunal to balance the need to hear a complaint in the public interest with the need for administrative certainty.

Applying a time limit to complaints without any discretion to accept complaints filed outside those time limits will result in unfairness. A good complaints process seeks to avoid this injustice by building in some reasonable flexibility about the application of requirements that may appear technical, such as a time limit. If the Ministry of Advanced Education establishes time limits for students to file claims

⁴⁰⁶ *Human Rights Code*, R.S.B.C. 1996, c. 210, s. 22.

against the Student Training Completion Fund, it must ensure in legislation that the body responsible for adjudicating those claims has the discretion to accept complaints filed outside the time limit. The ministry must also ensure that students have an appropriate opportunity to provide supporting documentation and make representations in support of their complaint.

Finding and Recommendations

F30 The Private Career Training Institutions Agency (PCTIA) bylaw allowing PCTIA to dismiss requests for tuition refunds if they are not submitted within six months arbitrarily restricts student access to the tuition refund process.

R34 The Ministry of Advanced Education establish in regulation:

- (a) reasonable time limits for filing complaints with the private career training institutions oversight body and for submitting supporting documents
- (b) that the private career training institutions oversight body may, in appropriate circumstances, accept complaints or supporting documents filed after any applicable time limits
- (c) that students have the opportunity, where appropriate, to explain why their complaint should be accepted even though they submitted it outside the applicable time limits
- (d) that students and institutions have the opportunity, where appropriate, to explain why their supporting documents should be accepted even though they are submitted outside the applicable time limits

R35 The Ministry of Advanced Education review those tuition refund requests dismissed by the Private Career Training Institutions Agency since the 2009/10 fiscal year because they were filed outside the six-month time limit. The Ministry of Advanced Education determine which of these students would be entitled to a tuition refund except for the six-month time limit and issue a refund to these students.

Provision of Adequate Reasons

In our review of PCTIA's student complaint files, we looked at whether PCTIA staff had given students reasons for the decisions made on their complaints. For some complaints, students had been provided with a written decision, but the reasons did not explain how the board had reached its decision (for example, how it weighed competing evidence from the student and the institution in reaching its conclusion). The bylaws require that the board's decision on a complaint "be communicated to the complainant and the institution in writing," but they do not require that reasons for that decision be stated.⁴⁰⁷

Since PCTIA's decisions can have significant consequences for students, written reasons are essential, especially for decisions where a complaint is dismissed and tuition refund denied. Although there is no statutory right of appeal for the board's decision, the board does have the authority to reconsider earlier decisions (and has done so, when requested).⁴⁰⁸ Written reasons would assist in this process, ensuring that more transparent, understandable and justifiable decision making takes place.⁴⁰⁹ Reasons should help a complainant understand how the evidence

Applying a time limit to complaints without any discretion to accept complaints filed outside those time limits will result in unfairness.

⁴⁰⁷ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.21.

⁴⁰⁸ *Private Career Training Institutions Act*, S.B.C. 2003 c. 79, s. 16(5).

⁴⁰⁹ *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, para 39.

was weighed, why the decision was made and whether the decision is within the range of possible outcomes.

Although there are no appeal options, inadequate reasons for a decision on a complaint could still be contested by the student or the institution in the Supreme Court of British Columbia through judicial review. A student or an institution could also make a complaint to the Office of the Ombudsperson. As inadequate reasons may be grounds for the court to quash the board's decision or to send the matter back to the board for further consideration, or for the Office of the Ombudsperson to investigate a complaint, it would seem that providing adequate and appropriate written reasons would be in the oversight body's best interest.

Case Summary

An international student enrolled in a payroll and accounting diploma program at a private career training institution that was registered and accredited by PCTIA. Tuition for the program was \$10,000. The student's enrolment contract stated that the program would be full-time, with 1,000 hours over 40 weeks. A separate letter of acceptance stated that the program included 25 hours of instruction per week – which, over 40 weeks, would equal the 1,000 hours of instruction the complainant expected. The student said that when she took the course, the delivery method was not as she had expected. In particular, a significant amount of the course involved self-paced and computer learning.

The student applied to PCTIA for a tuition refund on the basis that the institution had misled her about the method of instruction. In support of her complaint, the student provided PCTIA with copies of her enrolment contract and letter of acceptance. The institution responded to the complaint saying that teacher-led lecture courses accounted for 390 hours of training and computer-based training or self-paced study accounted for the remainder. The institution said for the computer-based training, an instructor was available to answer any questions students had. The institution did not address the difference between this program structure and the information contained in the student's letter of acceptance and enrolment contract.

When reviewing the complaint, PCTIA's Student Complaint Committee accepted the information provided by the institution. It concluded that the student was not misled, because the institution's representations to the student were not materially different from the actual services provided. The committee recommended that the application be dismissed. The board accepted the committee's recommendation and dismissed the application for a tuition refund. However, in the reasons provided, the board did not explain why it had preferred the evidence of the institution over that of the student, and on what basis it had rejected the student's assertion and supporting documentation that the method of instruction was, in fact, materially different from what was promised.

Analysis

Providing reasons for decisions fosters transparent and fair decision making. When communicating a decision, the body responsible for overseeing private career training institutions should provide adequate reasons for all of its decisions on student complaints. Adequate and appropriate written reasons allow students and institutions to understand why and how decisions have been made and, in appropriate circumstances, seek a reconsideration or review of the decision.

Although there is currently no requirement for PCTIA to provide reasons, they are nonetheless an important component of a fair decision-making process.

Finding and Recommendation

F31 The Private Career Training Institutions Agency board is not required in the legislation, the Regulation or the bylaws to provide reasons for its decisions on student complaints.

R36 The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:

- (a) must develop policy establishing what constitutes adequate and appropriate reasons
 - (b) must provide written reasons for its decisions on student complaints
-





FINDINGS AND RECOMMENDATIONS

Governance

- F1** The Private Career Training Institutions Agency's board structure and composition created the perception of an inherent conflict of interest and did not adequately represent the interests of the public and students.
- R1** The Ministry of Advanced Education require in legislation that any governing or advisory body has balanced representation from institutions, students, other stakeholders and the public.

Information for Students

Student Knowledge of the Private Career Training Institutions Oversight Body

- F2** The Private Career Training Institutions Agency has not taken adequate steps to ensure that students are informed of its oversight role and the protections provided to students, including the student complaints process, tuition refunds, and quality assurance standards.
- R2** The Ministry of Advanced Education:
- (a) develop a student bill of rights that reflects in plain language the protections provided to students at private career training institutions including the student complaints process, tuition refunds and quality assurance standards
 - (b) translate the student bill of rights into those languages spoken by a significant number of international students attending private career training institutions
 - (c) require the private career training institutions oversight body to publish the bill of rights and all translated versions on its website
 - (d) require private career training institutions to provide to students, and attach as part of the enrolment contract, the student bill of rights in English and any other applicable language it has been translated into
 - (e) require private career training institutions to keep a copy of the student bill of rights in a visible location on each campus

Information about an Institution or Program

- F3** The Private Career Training Institutions Agency has not established adequate requirements to protect students from inaccurate or misleading information about institutions and programs.
- R3** The Ministry of Advanced Education establish in regulation that private career training institutions are responsible for all representations made to current or prospective students by or on behalf of the institutions, including representations made outside Canada or in languages other than English.
- R4** The Ministry of Advanced Education require all private career training institutions to publish their current internal policies and tuition fee information on their websites.

- R5** The Ministry of Advanced Education:
- (a) develop a document for each program offered by private career training institutions, which provides relevant information about that program and any credential that will be obtained by students who enrol in that program
 - (b) translate each document into those languages spoken by a significant number of international students
 - (c) require private career training institutions to provide the document to students enrolling in a program in English and any other applicable language the document has been translated into
 - (d) require private career training institutions to attach the document as part of the enrolment contract

Monitoring

Unregistered Institutions

- F4** The Private Career Training Institutions Agency does not have a clear, written policy or procedures for identifying, tracking or monitoring unregistered institutions that it believes may be providing or offering to provide private career training or instruction contrary to the *Private Career Training Institutions Act*.
- R6** The Ministry of Advanced Education require that the private career training institutions oversight body develop and implement a clear, written policy and procedures for identifying, tracking and monitoring unregistered institutions that the body believes may be providing or offering to provide private career training or instruction contrary to the relevant legislation.
- F5** The *Private Career Training Institutions Act* does not require the Private Career Training Institutions Agency (PCTIA) to notify students attending unregistered institutions of the status of the institution and does not establish timelines within which PCTIA must require unregistered institutions to begin the registration process.
- R7** The Ministry of Advanced Education establish in regulation that:
- (a) when the private career training institutions oversight body determines that an unregistered institution needs to be registered, it immediately require that institution to begin the registration process
 - (b) if an institution does not begin the registration process within 30 days of the oversight body determining that an unregistered institution needs to be registered:
 - (i) the oversight body must immediately seek an injunction to stop the institution from operating
 - (ii) the oversight body must publish a notice on its website identifying the institution and its unregistered status
- R8** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body, once it determines that an unregistered institution needs to be registered, immediately and directly notifies students that the institution is unregistered and that students should pay no further fees until it is registered.

Pre-Registration Site Visits

- F6** The Private Career Training Institutions Agency is not required to and has not conducted pre-registration site visits to all institutions applying for registration.
- R9** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:
- (a) conducts a site visit to each institution applying for registration before that institution's application is approved
 - (b) uses an evaluation tool during pre-registration site visits that allows for an effective assessment of facilities, equipment and resources, and that assists in the evaluation of an institution's registration application
 - (c) develops a reliable process to track pre-registration site visits and their results and identify any that have not occurred

Post-Registration Site Visits

- F7** The Private Career Training Institutions Agency is not required to and has not conducted site visits to all institutions within six months of registration.
- R10** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conducts a site visit to all institutions within six months of registration for the purpose of completing a comprehensive review of operations.

Assessment of Institutions by Recognized Organizations

- F8** The Private Career Training Institutions Agency's (PCTIA's) bylaw allowing institutions to meet PCTIA's educational standards through accreditation by outside agencies does not adequately ensure that PCTIA will retain effective oversight of these institutions.
- R11** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body is responsible for determining whether an institution has complied with basic education standards and, where applicable, the accreditation standards, even where an institution has been assessed by an outside agency.

Program Approval

Review by a Subject Matter Expert

- F9** The *Private Career Training Institutions Act*, Regulation and Private Career Training Institutions Agency bylaws do not establish an adequate program approval process.
- R12** The Ministry of Advanced Education establish in regulation:
- (a) the circumstances in which a proposed program must be reviewed by an external subject matter expert before the private career training institutions oversight body can give its approval
 - (b) that the private career training institutions oversight body develop and implement policy directives that set out program approval criteria for program or vocation areas, including any requirements established by other governing bodies

Reporting and Approving Program Changes

- F10** The Private Career Training Institutions Agency's list of program changes requiring prior approval by the oversight body does not adequately monitor program changes that directly affect students.
- R13** The Ministry of Advanced Education review, expand and establish in regulation the program changes requiring prior approval from the private career training institutions oversight body to establish clear, non-discretionary standards for institutions to report and obtain approval for all program changes that directly affect students.

Programs Requiring Approval from Governing Bodies

- F11** The *Private Career Training Institutions Act*, the Regulation and bylaws do not establish an adequate process for the Private Career Training Institutions Agency to confirm that programs needing the approval of a governing body of a trade, profession or occupation have received and continue to maintain that approval on an ongoing basis.
- R14** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:
- (a) develop and maintain an accurate and up-to-date list of all programs regulated by a governing body and the institutions that offer those programs, and make that list publicly available
 - (b) before approving a program, communicate directly with any relevant governing body for the purpose of confirming the governing body's approval of the program
 - (c) review all programs requiring approval by a governing body annually to ensure institutions maintain governing body approvals and are providing students with accurate and up-to-date information on governing body requirements
 - (d) suspend program approval and immediately and directly notify all students of this decision if an institution has not maintained program approval from a governing body

Ongoing Monitoring

Monitoring Responsibilities and Resources

- F12** The Private Career Training Institutions Agency staffing did not allow it to adequately monitor private career training institutions and ensure that they complied with all requirements and standards.
- R15** The Ministry of Advanced Education ensure that the private career training institutions oversight body demonstrates it has adequate staff to fulfil its oversight responsibilities.

Reporting Requirements for All Institutions

- F13** The Private Career Training Institutions Agency does not obtain information about student employment outcomes post-graduation from registered non-accredited institutions.
- R16** The Ministry of Advanced Education require the private career training institutions oversight body to track and report publicly on student employment outcomes post-graduation, student and graduate satisfaction surveys, third-party professional or licensing examination results and industry or employer feedback from all private career training institutions.

Inspections and Site Visits

- F14** The Private Career Training Institutions Agency is not required to conduct regular site visits to all registered non-accredited institutions and does not track which institutions it has visited.
- R17** The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body conduct a comprehensive site visit to each private career training institution at least once a year.
- F15** The Private Career Training Institutions Agency does not publish the dates of past and planned site visits to private career training institutions on its website.
- R18** The Ministry of Advanced Education require that the private career training institutions oversight body publish on its website:
- (a) the dates and a summary of the results of each of its site visits to each institution for the past five years
 - (b) the date of its next scheduled visit to each institution
 - (c) the date of its next scheduled accreditation review for each accredited institution

Contacting Students during Site Visits

- F16** The Private Career Training Institutions Agency is not required to meet, interview or speak with students at institutions during site visits or during any other monitoring process.
- R19** The Ministry of Advanced Education:
- (a) establish in legislation that the private career training institutions oversight body has the right to contact students at a private career training institution at any time, including as part of the oversight body's site visit to an institution
 - (b) require the private career training institutions oversight body to include a meeting with students as part of all site visits
- F17** The Private Career Training Institutions Agency does not directly notify students of upcoming site visits, but instead relies on the institutions to notify students and instructors.
- R20** The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process to directly notify students of upcoming site visits to an institution and encourage students to contact the oversight body during a site visit.

Enforcement

Enforcement Mechanisms

- F18** The Ministry of Advanced Education has not ensured that the Private Career Training Institutions Agency has an appropriate range of tools to enforce institution compliance with the *Private Career Training Institutions Act*, the Regulation and the bylaws.
- R21** The Ministry of Advanced Education expand in legislation and regulation the enforcement options available to the private career training institutions oversight body by creating a system of administrative penalties that can be progressively applied to persons and institutions, including unregistered institutions, which do not comply with applicable legislative, regulatory and policy requirements.

Publication of Enforcement Decisions

- F19** The Private Career Training Institutions Agency only publishes information about enforcement decisions that result in an institution's registration or accreditation being suspended or cancelled, and does not publish enforcement decisions more than five years old.
- F20** Until 2013, the Private Career Training Institutions Agency (PCTIA) provided inadequate public information about the reasons for its enforcement decisions and any impact the decisions may have on students. Since 2013, PCTIA has provided inconsistent public information about the reasons for its enforcement decisions.
- R22** The Ministry of Advanced Education require the private career training institutions oversight body to:
- (a) publish all enforcement decisions on its website, including the reasons for the decision
 - (b) clearly describe any impact each enforcement decision may have on students and publish this on its website
 - (c) maintain enforcement decisions, reasons and descriptions of the decisions' impact on students on its website indefinitely

Notice to Current Students

- F21** The Private Career Training Institutions Agency does not adequately inform current students of all its suspension and cancellation decisions and how such decisions may affect the students.
- R23** The Ministry of Advanced Education require the private career training institutions oversight body to immediately and directly notify all current students of any decision to suspend or cancel an institution's registration or accreditation and provide the students with:
- (a) in the case of a decision to cancel registration, a written explanation of how students can seek a tuition refund and pursue any teach-out options
 - (b) in the case of a decision to suspend registration or to suspend or cancel accreditation, a written explanation of how this decision will affect students

Complaints

Student Complaint Processes at Institutions

- F22** The Ministry of Advanced Education has not established any specific and binding requirements that private career institutions must follow when developing and implementing a student complaint resolution policy.
- R24** The Ministry of Advanced Education establish in regulation that all private career training institutions develop and implement a student complaint resolution policy and that the institution policy includes, at a minimum:
- (a) reasonable time frames for responding to all complaints
 - (b) that institutions provide students an opportunity to be heard before a decision is made
 - (c) that institutions provide students with a written decision and reasons on the outcome of their complaint

- (d) that students be informed in writing of their options if they are not satisfied with the institution's complaint resolution process or response to their complaint
- (e) that students be provided written confirmation that they will not be subject to any retaliation as a result of their complaint
- (f) that institutions maintain detailed records of each complaint and how it was handled

F23 The Ministry of Advanced Education does not require private career training institutions to notify, or obtain approval from, the Private Career Training Institutions Agency before making changes to student complaint resolution policies.

R25 The Ministry of Advanced Education require all private career training institutions to notify, and obtain approval from, the private career training institutions oversight body before making any changes to student complaint resolution policies.

F24 The Ministry of Advanced Education does not require private career training institutions to report information about complaints to the Private Career Training Institutions Agency.

R26 The Ministry of Advanced Education require all private career training institutions to report annually to the private career training institutions oversight body on the number of student complaints received, the nature of the complaints and the outcome of the complaints.

PCTIA Student Complaints Process

F25 The *Private Career Training Institutions Act* and the Regulation do not require the Private Career Training Institutions Agency to have a process for receiving, responding to and resolving student complaints that do not involve a request for a tuition refund.

R27 The Ministry of Advanced Education establish in legislation that students can make a complaint to the private career training institutions oversight body if they have been unable to resolve complaints with a private career training institution about:

- the quality of education or the way in which education is delivered
- an institution's compliance with the oversight body's legislation, regulations and other requirements
- an institution's application of its own internal policies and procedures

R28 The Ministry of Advanced Education require the private career training institutions oversight body to develop and implement a process for receiving, investigating and responding to student complaints about:

- the quality of education or the way in which education is delivered
- an institution's compliance with the oversight body's legislation, regulations and other requirements
- an institution's application of its own internal policies and procedures

R29 The Ministry of Advanced Education establish in legislation that the private career training institutions oversight body may direct private career training institutions to take measures the oversight body has determined are appropriate to resolve student complaints made to the oversight body.

Complaints about Unregistered Institutions

- F26** The *Private Career Training Institutions Act* and the Regulation do not allow students who attend or have attended unregistered institutions that subsequently register with the Private Career Training Institutions Agency to make a claim, on the grounds that they were misled, against the Student Training Completion Fund.
- R30** The Ministry of Advanced Education establish in legislation that students who attend unregistered institutions that are subsequently registered are eligible to apply for and receive a tuition refund on the same basis as students enrolled in registered institutions.

PCTIA's Process for Responding to Complaints

Accessing the Complaints Process

- F27** The Private Career Training Institutions Agency has not ensured its complaints process is accessible and provides students with accurate information.
- R31** The Ministry of Advanced Education require that the private career training institutions oversight body:
- (a) develops and uses a student complaint form that is concise and is written in plain language
 - (b) takes reasonable steps to assist students who may face challenges in making a complaint, including linguistic and cultural differences
 - (c) provides accurate information about the complaints process on both its website and in the complaints form, including information about the role of the Office of the Ombudsperson
 - (d) informs students that they should not face any retaliation as a result of making a complaint

An Administratively Fair Decision-Making Process

An Impartial Decision-Maker

- F28** The composition of the Private Career Training Institutions Agency board and the board's responsibility for making decisions about student tuition refund requests did not adequately ensure that student requests for tuition refunds were heard by an independent and impartial decision-maker.
- R32** The Ministry of Advanced Education establish in regulation that all student complaints are heard and decided by an independent and impartial decision-maker.

The Right to Be Heard

- F29** The Private Career Training Institutions Agency (PCTIA) bylaws establish a student complaint process that does not provide either students or institutions the right to an oral hearing where appropriate, or the opportunity to request an oral hearing on a student complaint to PCTIA.

R33 The Ministry of Advanced Education establish in regulation:

- (a) the situations in which a student or institution has a right to an oral hearing of a complaint to the private career training institutions oversight body
- (b) that a student or institution may request an oral hearing in relation to any complaint being dealt with by the private career training institutions oversight body
- (c) that if a request for an oral hearing is denied, the private career training institutions oversight body provides written reasons

Fair Application of Time Limits

F30 The Private Career Training Institutions Agency (PCTIA) bylaw allowing PCTIA to dismiss requests for tuition refunds if they are not submitted within six months arbitrarily restricts student access to the tuition refund process.

R34 The Ministry of Advanced Education establish in regulation:

- (a) reasonable time limits for filing complaints with the private career training institutions oversight body and for submitting supporting documents
- (b) that the private career training institutions oversight body may, in appropriate circumstances, accept complaints or supporting documents filed after any applicable time limits
- (c) that students have the opportunity, where appropriate, to explain why their complaint should be accepted even though they submitted it outside the applicable time limits
- (d) that students and institutions have the opportunity, where appropriate, to explain why their supporting documents should be accepted even though they are submitted outside the applicable time limits

R35 The Ministry of Advanced Education review those tuition refund requests dismissed by the Private Career Training Institutions Agency since the 2009/10 fiscal year because they were filed outside the six-month time limit. The Ministry of Advanced Education determine which of these students would be entitled to a tuition refund except for the six-month time limit and issue a refund to these students.

Provision of Adequate Reasons

F31 The Private Career Training Institutions Agency board is not required in the legislation, the Regulation or the bylaws to provide reasons for its decisions on student complaints.

R36 The Ministry of Advanced Education establish in regulation that the private career training institutions oversight body:

- (a) must develop policy establishing what constitutes adequate and appropriate reasons
- (b) must provide written reasons for its decisions on student complaints





Our Ref. 98957

February 17, 2015

Ms. Kim S. Carter
Ombudsperson
Province of British Columbia
947 Fort St
PO Box 9039 Stn Prov Govt
Victoria BC V8W 9A5

Dear Ms. Carter:

Thank you for your letter dated December 22, 2014 and accompanying draft report entitled *In the Public Interest: Protecting Students through Effective Oversight of Private Career Training Institutions*.

I appreciate receiving the draft report and having the opportunity to review your findings and recommendations. This report is timely given government plans to assume direct responsibility for the regulation of private career training institutions.

The planned changes to the regulation of the sector – the first element of which was introduced in the Legislature on February 11, 2015 with the first reading of the Private Training Act - will address a number of key objectives, including: strengthening quality assurance at private career training institutions; improving public confidence in the private career training sector, both domestically and internationally; streamlining administrative processes and over time, reducing student financial assistance default rates in the sector.

The Private Training Act is anticipated to be brought into force sometime in the Fall by regulation. The regulations will also set out much of the operational detail and will address many of your report recommendations.

Government is also committed to consumer protection for students and will assume this role directly after the transition. Our goal is to provide students with choice and access to a diverse and high quality range of private career training options.

.../ 2

**Ministry of
Advanced Education**

Office of the
Minister

Mailing Address:
PO Box 9080 Stn Prov Govt
Victoria BC V8W 9E2

Location:
Parliament Buildings
Victoria

- 2 -

Your findings and recommendations will provide helpful guidance as we finalize development of policy and regulatory options for the sector.

Thank you again for your report and your contribution to this important subject and I look forward to having further discussions with you once the new regulatory model is fully in place.

Sincerely,

A handwritten signature in black ink that reads "Andrew Wilkinson". The signature is written in a cursive, slightly slanted style.

Andrew Wilkinson
Minister

pc: Ms. Sandra Carroll, Deputy Minister

Appendix 1 – Missed Opportunities: PCTIA’s Oversight of the Shang Hai Traditional Chinese Medicine College

Our systemic investigations are based on issues raised in individual complaints and this investigation is no exception. While we received a series of individual complaints about the Private Career Training Institutions Agency (PCTIA) over the years, in 2011, there was an increase when we began to receive complaints from former students of the Shang Hai TCM College of BC Canada, which offered training in traditional Chinese medicine (TCM) and acupuncture. Our investigation of these complaints highlighted broader concerns about the role of PCTIA in regulating private career training institutions, and was a factor in our decision to initiate a systemic investigation.

As part of our systemic investigation, we reviewed PCTIA’s file for Shang Hai TCM College. PCTIA’s monitoring of this institution illustrates many of the concerns that also arose in our broader investigation, and demonstrates the need for effective oversight to protect students. This review of oversight outlines the history of Shang Hai TCM College’s involvement with PCTIA.

Oversight of Traditional Chinese Medicine Training in British Columbia

In 1994, Shang Hai TCM College registered with PCTIA’s predecessor, the Private Post-Secondary Education Commission. It became accredited in 1998, and retained this accreditation until 2010 when it closed. Institutions that are accredited can apply for a designation that allows their students to obtain government student loans to assist in paying their tuition and study period living expenses. The cost and duration of many of Shang Hai TCM College’s programs, up to \$38,000 and five years of training, meant that some of its students used student loans to finance their studies. Shang Hai TCM College’s website stated that “student loans may be available for qualified candidates.”⁴¹⁰

From the time it opened, the institution offered courses related to the practice of TCM and acupuncture. According to its mission statement Shang Hai TCM College was:

... committed to excellence in teaching of the ethics, morals and techniques of Traditional Chinese Medicine.⁴¹¹

To understand PCTIA’s role in protecting students who studied at Shang Hai TCM College, it is first necessary to outline how British Columbia regulates who can train in, and practice, TCM and acupuncture.

The practice of acupuncture was first regulated in British Columbia in 1996 through the establishment of the College of Acupuncturists of British Columbia. In 1999, the College’s mandate expanded to include TCM, and it became known as the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia.⁴¹² As of December 15, 2014, there were 1,528 registrants listed on the College’s website.

⁴¹⁰ Shang Hai TCM College of BC, “Admission Criteria” <<http://www.acupuncture-college.com/Admission/>> archived at <<http://web.archive.org/web/20061103185540/http://www.acupuncture-college.com/Admission/>>.

⁴¹¹ Shang Hai TCM College of BC, *2001–2002 Student Handbook*, 2. The 2009–2010 and 2010–2011 student handbooks contained the same mission statement and added a reference to teaching Holistic Medicine.

⁴¹² College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia, “About Us” <<http://www.ctcma.bc.ca/index.php?id=62>>.



It is important for oversight bodies responsible for ensuring statutory and regulatory standards are being met by private career training institutions to correctly identify and actively monitor programs or proposed programs.

The College is included as a health profession college under the *Health Professions Act* in the same way as the College of Physicians and Surgeons of British Columbia and the College of Licensed Practical Nurses of British Columbia.⁴¹³ Its authority to regulate the practice of TCM and acupuncture is set out in the *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation* that was made by government under that Act.⁴¹⁴

TCM, as defined in the regulation, is “the promotion, maintenance and restoration of health and prevention of a disorder, imbalance or disease based on traditional Chinese medicine theory” using the following practices:

- Chinese acupuncture (Zhen), moxibustion (Jiu), and suction cup (Ba Guan)
- Chinese manipulative therapy (Tui Na)
- Chinese energy control therapy (Qi Gong)
- Chinese rehabilitation exercises such as shadow boxing (Tai Ji Quan)
- prescribing, compounding or dispensing Chinese herbal formulae (Zhong Yao Chu Fang) and food cure recipes (Shi Liao)⁴¹⁵

Acupuncture is a branch of TCM that uses needles to stimulate mucous membranes and subcutaneous tissues.⁴¹⁶ Acupuncture and TCM are treatments used in the larger practice of holistic health care. The term “holistic” in the medical context is defined as “the treatment of the whole person, taking into account mental and social factors, rather than just the symptoms of a disease.”⁴¹⁷ Holistic health care is not generally regulated in British Columbia. Certain treatments and procedures that fall under the umbrella of holistic health, such as TCM, acupuncture and naturopathy are, however, regulated and have professional governing bodies which are based on and operate under statutory authority.

As holistic health care includes some treatments and practices that are regulated and some that are not, it is important for oversight bodies responsible for ensuring statutory and regulatory standards are being met by private career training institutions to correctly identify and actively monitor programs or proposed programs. To identify programs subject to regulation, the oversight body must consider which subjects and skills are actually being taught, regardless of what an institution has named a course or which of its programs the institution identifies as being regulated. This scrutiny is essential to ensure that students will ultimately be able to practice in their chosen field. For example, if an institution offers a course in holistic health care, the oversight body must determine whether and how the course – or any of its components – is subject to regulatory requirements. Similarly, if a health sciences program at a private career training institution taught nursing skills and marketed its program as leading to employment as a nurse, it would be the responsibility of the oversight body to ensure that the program met the requirements of the relevant regulatory body for nurses.

The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia registers both TCM practitioners and acupuncturists. Only a

⁴¹³ *Health Professions Act*, R.S.B.C. 1996, c. 183, s. 15(1).

⁴¹⁴ *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation*, B.C. Reg. 290/2008.

⁴¹⁵ *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation*, B.C. Reg. 290/2008, s. 1.

⁴¹⁶ Acupuncture is defined as “an act of stimulation by means of needles, of specific sites on the skin, mucous membranes or subcutaneous tissues of the human body to promote, maintain, restore or improve health, to prevent a disorder, imbalance or disease or to alleviate pain and includes (a) the administration of manual, mechanical, thermal and electrical stimulation of acupuncture needles, (b) the use of laser acupuncture, magnetic therapy or acupressure, and (c) moxibustion (Jiu) and suction cup (Ba Guan)”: *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation*, B.C. Reg. 290/2008, s. 1.

⁴¹⁷ *The Oxford Encyclopedic English Dictionary* (Toronto: Oxford University Press, 1991), 679.

person who is registered with the College can practice TCM or acupuncture in British Columbia.⁴¹⁸ Students who are completing the required clinical training portion of their TCM education must be registered with the College during that clinical training.⁴¹⁹

The College also determines what prerequisite education an applicant for registration must have. The College first introduced a bylaw requiring applicants for registration to have two years of liberal arts or sciences education in 2001. The bylaw, which took effect in September 2002, required individuals applying to begin a TCM program to have already completed at least two years of university studies. Institutions offering TCM programs were responsible for ensuring their students met this prerequisite. Seven years later, on December 28, 2009, the College amended its bylaws to allow students to complete the two years of university education after completing an approved course of TCM training and before they begin to practice.⁴²⁰ After this bylaw change, institutions offering TCM and acupuncture training did not have to establish two years of university as an admission prerequisite. However, the institutions still had to make students aware that their TCM or acupuncture training alone would not satisfy the College's registration requirements.

In 2003, the Private Post-Secondary Education Commission asked the College of TCM Practitioners and Acupuncturists of British Columbia to confirm whether Shang Hai TCM College met the College's requirements. In 2004, PCTIA was established and, since 2005, the agency's bylaws have required that institutions meet the requirements of governing bodies (which would include the College of TCM Practitioners and Acupuncturists of British Columbia).⁴²¹ However, there are no records in PCTIA's file confirming that PCTIA had ever contacted the College to ask whether Shang Hai TCM College met its requirements.

"Circumventing" the College?:⁴²² Shang Hai TCM College's Holistic Health Sciences Programs

Since becoming registered in 1994, Shang Hai TCM College had offered programs in TCM, including acupuncture. These programs were approved by PCTIA. The admission requirements for Shang Hai TCM College's TCM programs met the College's two-year university mandatory prerequisite. The students of these TCM programs were registered with the College and were therefore permitted to participate in clinical training of TCM.

In August 2005, Shang Hai TCM College applied to PCTIA for approval of a new program offering a Holistic Health Sciences diploma. Shang Hai TCM College presented this diploma program as distinct from the TCM programs the institution already offered. The program did, however, include TCM diagnosis and acupuncture. Shang Hai TCM College did not make two years of university education a

⁴¹⁸ *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation*, B.C. Reg. 290/2008, s. 5. Other regulated health professions, such as naturopathic physicians and physical therapists may include acupuncture in their practices. Although there are no exceptions in the *Traditional Chinese Medicine Practitioners and Acupuncturists Regulation*, both the *Naturopathic Physicians Regulation*, B.C. Reg. 282/2008 and the *Physical Therapists Regulation*, B.C. Reg. 288/2008 allow registrants to practice restricted activities that may include the insertion of needles for acupuncture.

⁴¹⁹ College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia, revised bylaw, 13 March 2014, Part IV, s. 51.

⁴²⁰ College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia, letter to Shang Hai TCM College of BC Canada, 15 February 2010.

⁴²¹ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part F, s. 30.4.

⁴²² In an email dated March 17, 2009, PCTIA's accreditation audit team questioned whether Shang Hai TCM College was "circumventing the two years of university as an entrance requirement" by offering its program in Holistic Health Sciences.

prerequisite for admission, as required by the College. Instead of denying the program approval request, PCTIA told the institution in a letter that it would defer to the College and wait for its response before approving the program. PCTIA also forwarded a copy of its letter to Shang Hai TCM College to the College. The College wrote to Shang Hai TCM College expressing concerns about the proposed program's content and told Shang Hai TCM College that students would be prohibited from participating in clinics involving acupuncture, TCM diagnosis or other TCM practices.

Two months later, in October 2005, Shang Hai TCM College again applied to PCTIA for approval of the same Holistic Health Sciences diploma program. In this application, Shang Hai TCM College removed all references to courses involving acupuncture and TCM diagnosis. The deletion of these courses meant that students taking the program would not have to meet the College's admission requirements. Instead, Shang Hai TCM College established much lower admission requirements: students had to be at least 19 years old and high school graduates. Offering a program that did not include TCM or acupuncture was a departure from the institution's previous programs. The institution's name – Shang Hai TCM College – also implied that it provided only TCM training. PCTIA, however, approved the Holistic Health Sciences program 20 days after receiving the second application without making further inquiries.

Shang Hai TCM College's Holistic Health Sciences diploma program consisted of four years of study, cost \$7,600 tuition per year, and – on paper – offered courses in holistic medicine, botanical sciences, body work and biosciences. It also included clinical practicums in each semester. It was supposed to lead to employment as a holistic health practitioner, which is not generally regulated in British Columbia. If the program had offered clinical training in TCM or acupuncture, its students would have been required to register with the College and, before doing so, meet the College's educational requirements.

It would have been prudent for PCTIA to look carefully – in advance of any approvals – at the content of this program.

Given the interrelationship between holistic health sciences and TCM, it is concerning that PCTIA did not question the nature of Shang Hai TCM College's Holistic Health Sciences program more closely. Shang Hai TCM College's characterization of its program as "holistic health sciences" meant that it would be exempt from the College's requirements, but the institution had clearly demonstrated through its initial Holistic Health Sciences program application that it wanted to include courses in TCM and acupuncture. In these circumstances, it would have been prudent for PCTIA to look carefully – in advance of any approvals – at the content of this program.

Shang Hai TCM College Promotes a Federal Licensing Body

In 2005, as PCTIA was approving the Holistic Health Sciences diploma program, it learned that Shang Hai TCM College was advertising that it was licensed by a federal TCM governing body – the Council of Natural Medicine College of Canada.

In September 2005, PCTIA sent a letter to Shang Hai TCM College asking it to stop advertising that the institution was federally licensed because there was no federal governing body for TCM or acupuncture and the advertising was misleading. Information in PCTIA's file indicated that Shang Hai TCM College was also telling students its programs were licensed by a federal body. At least one student contract from this time period, dated June 16, 2005, contained an acknowledgement by the student that he did not have two years of university education and that, because of this, he had asked to enrol in the program approved by the federal body instead of the College-approved program.

An archived copy of the Council's website from December 2005 states that the Council's mission was to "protect and serve the general public, our members and students by providing educational excellence, regulation and members programs within the field of natural medicine. The CNMC *[sic]* offers accreditation for educational programs."⁴²³ This indicates that the Council was presenting itself as having a regulatory role, when there was no statutory basis for such an assertion. There is no indication in the records that PCTIA contacted the purported licensing and regulatory body.

Shang Hai TCM College continued to send information to PCTIA about what it described as its registration with a federal licensing body. For example, Shang Hai TCM College told PCTIA that the federal licensing body had asked the institution to add a sixth year to a five-year Doctor of TCM program. PCTIA responded by writing that it was not aware of a federal licensing body and the provincial College only required five years of training. PCTIA did not make any further inquiries.

In March 2006, Shang Hai TCM College applied to PCTIA for approval of a new Holistic Health Sciences in TCM post-diploma program.⁴²⁴ The application included a letter from the Council stating that it had granted Shang Hai TCM College certification and that graduates of the institution would be eligible to apply to the Council for a registered certificate.⁴²⁵ Again, PCTIA did not inquire further into the legitimacy of the federal body, on what basis the Council could approve Shang Hai TCM College's programs or what the "registered certificate" meant.

By at least October, 2006, according to an archived copy of its website, the Council was stating that "CNMCC members are entitled to practice Complementary and Alternative medicine, including ... Acupuncture [and] Traditional Chinese Herbal Medicine."⁴²⁶ In November, 2006, Shang Hai TCM College was stating on its website that students who completed five-year courses of its Doctor of TCM program without the College's prerequisite could apply for the Council's "licensing examination."⁴²⁷ In describing its admission requirements, Shang Hai TCM College mentioned the College's two-year university requirement, but then went on to say:

To qualify for CNMCC nationally approved courses no university education is required, high school graduates are encouraged to apply. This course includes the five year CTCMA Traditional Chinese Medicine course with an additional year of Holistic Health Sciences Post diploma program.⁴²⁸

This indicates that Shang Hai TCM College was admitting TCM students who did not meet the College's prerequisites, and the institution was using the Holistic

PCTIA did not inquire further into the legitimacy of the federal body.

⁴²³ Council of Natural Medicine College of Canada, "Our Mission" <<http://www.cnmccanada.com/home.shtml>>, archived at <<https://web.archive.org/web/20061017070537/http://www.cnmccanada.com/home.shtml>>.

⁴²⁴ PCTIA ultimately did not approve this new program application, as it had previously approved a program of the same name for Shang Hai TCM College in 2003.

⁴²⁵ Council of Natural Medicine College of Canada, letter to Shang Hai TCM College of BC Canada, 31 August 2004. The letter did not specify what profession the graduates would be certified in, stating: "The Council of Natural Medicine College of Canada certification and program approved board *[sic]* has granted Shang Hai TCM College full board professional approval and certification ... Graduates of your school will be eligible to apply to the CNMC *[sic]* registered certificate."

⁴²⁶ Council of Natural Medicine College of Canada, "Scope of Practice" <<http://www.cnmccanada.com/home.shtml>> archived at <<http://web.archive.org/web/20061017070537/http://www.cnmccanada.com/home.shtml>>.

⁴²⁷ Shang Hai TCM College of B.C., "D.T.C.M. (Doctor of Traditional Chinese Medicine) Course Content" <<http://www.acupuncture-college.com/Courses/doctor.shtml>> archived at <<https://web.archive.org/web/20061103185643/http://www.acupuncture-college.com/Courses/doctor.shtml>>.

⁴²⁸ Shang Hai TCM College of B.C., "Admission Criteria" <<http://www.acupuncture-college.com/Admission/>> archived at <<https://web.archive.org/web/20061103185540/http://www.acupuncture-college.com/Admission/>>.

We found no records that would confirm PCTIA had questioned Shang Hai TCM College about its affiliation with the Council or had ever directly contacted the Council itself.

Health Sciences post-diploma program in conjunction with its TCM program as an alternative to the College-approved programs for students to become eligible for TCM practice.

When we reviewed PCTIA's file, we found no records that would confirm PCTIA had questioned Shang Hai TCM College about its affiliation with the Council or had ever directly contacted the Council itself. PCTIA's file did, however, contain a copy of another student contract dated August 8, 2007, that included an acknowledgement by the student that he asked to enrol in the program approved by the Council instead of the College-approved program because he did not have two years of university education.

The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia Takes the Council of Natural Medicine College of Canada to Court

In August 2007, the College of TCM Practitioners and Acupuncturists of British Columbia met with and wrote to PCTIA informing it of the College's intention to take court action against the Council of Natural Medicine College of Canada. The College alleged that the Council had infringed on trademarks related to the practice of TCM and acupuncture, including illegally granting TCM credentials. The College invited PCTIA to join the court action "to address the ways in which the public is being misled by [the Council] and Shanghai [sic] College."

In an August 17, 2007 letter, after inviting PCTIA to join the legal action, the Chair of the College wrote to PCTIA's registrar stating:

This issue is becoming more pressing as more graduates from a PCTIA accredited provincial school seek business licenses to practice Traditional Chinese Medicine and/or Acupuncture. These graduates are defying provincial laws, are accountable to no authority and while putting the public at risk, they themselves risk legal action and loss of employment.

On behalf of the [College], I hope that you will join us in working towards a solution to an increasing problem. We anticipate that before long the growing number of applicants who have been refused business licenses will come forward and draw unwanted publicity to both our organizations.

In the same correspondence, the College informed PCTIA that, according to officials from other TCM institutions, representatives of Shang Hai TCM College had recommended that students write the Council's examinations and not register with the College. The College further wrote that seven Shang Hai TCM College students had recently applied to write the Alberta acupuncture examination, and that students who took clinical training without registering with the College were in breach of the law and that the College would not recognize their training. PCTIA did not join in the legal action, nor was it spurred on to prevent Shang Hai TCM College from telling students and the public that the Council had licensed its programs.

We found information related to the College's investigation of Shang Hai TCM College in PCTIA's file. Before initiating its lawsuit, the College commissioned a private investigation into Shang Hai TCM College. In the investigation report, the private investigators said that they attended Shang Hai TCM College in October 2007 pretending to be prospective students interested in studying TCM. Shang Hai TCM College staff told the investigators that registration with the College was not the only way students could study and train in TCM. According to the investigators'

report, Shang Hai TCM College told the investigators that there were two other options for students wishing to practice TCM in British Columbia:

- students could register with the Council, which did not require two years of university education
- students could write the practitioners' examination in Alberta and transfer to British Columbia⁴²⁹

The College provided PCTIA with a copy of the investigators report and an audio recording of the investigators' conversations with Shang Hai TCM College staff on October 15, 2007. Also on October 15, 2007, the College informed PCTIA that the Council's mailing address and fax number in Ottawa were associated with a store that provided mailbox services.

After completing its investigation, the College publicly announced in November 2007 that it was going to begin legal action to stop the Council from granting TCM credentials. Shang Hai TCM College's annual Institutional Accreditation Report to PCTIA, also dated November 2007, included a licensing table indicating that the Council of Natural Medicine College of Canada had licensed six of its programs – Doctor of TCM, Acupuncturist, Holistic Health Science diploma program, Holistic Health Sciences post-diploma in TCM, post-diploma in Acupuncture, and Advanced post-diploma program in TCM. Still, PCTIA took no action, even though the College was launching a lawsuit against the Council. As well, PCTIA now had information that the Council was connected to Shang Hai TCM College.

We found no records in PCTIA's file showing that the agency took any steps to question the licensing of Shang Hai TCM College's programs by the Council. Although the College took action against the trademark infringements by the Council, it had no jurisdiction over the operations of public training institutions or Shang Hai TCM College itself. Only PCTIA, whose mandate is to protect students, had the authority to inspect or take enforcement action against private career training institutions. While the College could deny Shang Hai TCM College graduates licenses to practice, PCTIA was the only body that could have placed conditions on, suspended or cancelled Shang Hai TCM's registration and accreditation, thereby restricting its ability to operate.

PCTIA was the only body that could have placed conditions on, suspended or cancelled Shang Hai TCM's registration and accreditation, thereby restricting its ability to operate.

PCTIA Asks Questions but Fails to Act

In late 2007 (the exact date was not clear from PCTIA's records), PCTIA staff visited Shang Hai TCM College to check whether all of its students had completed two years of university study as required by the College for admission to TCM and acupuncture programs. PCTIA reviewed 31 Shang Hai TCM College student files and found that 11 students did not meet the university education requirements. Although PCTIA staff were supposed to "interview the students if possible," there is no record in PCTIA's file that staff conducted any interviews during or after their visit.

⁴²⁹ Traditional Chinese medicine is not regulated in Alberta, but acupuncture has been regulated since 1988. The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia's June 6, 2007, policy manual clarified that the two years of university prerequisite still applied to out-of-province TCM-trained student applicants, except in two limited circumstances that would not generally apply to students who studied at Shang Hai TCM College and then wrote the exam in Alberta: The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia *Policy Manual*, 6 June 2007, Addendum E: Out-of-Province TCM trained Student Applicants. In a letter dated January 14, 2009, to a former Shang Hai TCM College student, the College explained that it had a reciprocity program with the Alberta College of Acupuncture and Traditional Chinese Medicine, a private career training institution. However, the College said that "any attempt by an applicant to circumvent its two-year university requirement by writing the Alberta College of Acupuncture and Traditional Chinese Medicine exam would be looked upon unfavourably by the College's registration committee."

While its inquiries into student admission requirements continued, on February 14, 2008, PCTIA approved another new program for Shang Hai TCM College: a 16-month post-diploma program in Holistic Studies. The post-diploma program did not, on paper, include courses in TCM or acupuncture and therefore did not include the College's prerequisite of two years of university education in its admission criteria. The admission requirements for this program were a Doctor of TCM or a Holistic Health Sciences diploma. The Holistic Health Sciences programs ran parallel to the TCM programs offered by Shang Hai TCM College.

In Shang Hai TCM College's application to PCTIA for the new program, the institution stated that graduates could work in their own clinics or as "holistic health physicians." Shang Hai TCM College also stated that "[graduates] also are qualified to take [the] Natural Health Doctor licensing examination offered by [the] Council of Natural Medicine College of Canada (CNMCC). Becoming a Natural Health Doctor enables them to practice holistic medicine." Furthermore, Shang Hai TCM College explained that instructors of the program were required to have a "license issued by CNMCC in [a] related health field." Given that PCTIA knew there was ongoing litigation over the legitimacy of the Council, and PCTIA was in the middle of conducting its own inquiries into Shang Hai TCM College's compliance with the College's requirements, it is perplexing that PCTIA approved the new program at the time.

Two weeks later, on February 29, 2008, PCTIA followed up its earlier review of Shang Hai TCM College's student files with a letter asking the institution to provide documentation demonstrating how 11 students who had not completed two years of university met the College's admission requirement.

In a letter dated March 6, 2008, Shang Hai TCM College's legal counsel responded, asserting that the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia did not have jurisdiction to impose the two years of university admission requirement, and that students without the prerequisite could still obtain a TCM practitioner's license in Alberta and then transfer to British Columbia. This highlighted information that PCTIA had received directly in a letter from the College of TCM Practitioners and Acupuncturists of British Columbia only six months earlier that had raised concerns about students applying for licenses in Alberta. The letter from Shang Hai TCM College also stated that 4 of the 11 students had registered in the TCM program before the College's admission prerequisite came into force in 2002; two students met the prerequisite; four students were in the Holistic Health Sciences program, which did not include TCM or acupuncture, and therefore did not fall under the College's jurisdiction; and one student had dropped out.

PCTIA responded to Shang Hai TCM College on March 17, 2008, by confirming the institution had adequately responded to the agency's concerns. PCTIA did not question why the information provided by Shang Hai TCM College's lawyer was not in the students' files when PCTIA reviewed them or why Shang Hai TCM College did not provide supporting documentation in its response. PCTIA did not further question Shang Hai TCM College's response and referred the institution to the College to address the admission requirement issue. There was no documentation in PCTIA's file supporting Shang Hai TCM College's statements that all its students met or were exempt from the requirements. There were no records indicating that PCTIA followed up on or tried to verify the information about the 11 students.

Business as Usual

In 2009, Shang Hai TCM College was providing training and instruction for the Holistic Health Sciences diploma and post-diploma programs. There were at least five students registered in Shang Hai TCM College's Holistic Health Sciences program (although one document we reviewed listed 27 students in the program) and

seven students registered in the post-diploma Holistic Health Science program. As the program descriptions did not mention training in TCM or acupuncture, PCTIA did not assess whether students in those programs met the governing body's registration or admission requirements, or whether graduates were eligible to apply to the College to practice TCM or acupuncture. The same year, however, Shang Hai TCM College was due for its five-year accreditation audit, which was supposed to assess Shang Hai TCM College's compliance with PCTIA's bylaws.

On March 20, 2009, internal emails between the external subject matter experts who formed PCTIA's accreditation audit team and PCTIA staff identified two issues to discuss with school officials during the upcoming site visit to Shang Hai TCM College:

- whether Shang Hai TCM College was abiding by the College's two years of university admission requirement
- whether the Holistic Health Sciences program, which, on paper, did not include any practices regulated by the College, was an attempt to circumvent the College's two years of university admission requirement

In April 2009, the accreditation audit team completed its site visit report which included observations, conclusions and recommendations. The team made four recommendations related to the Holistic Health Sciences program, including that:

- Shang Hai TCM College develop and set clear goals and objectives to separate the Holistic Health Sciences program from the TCM programs
- Shang Hai TCM College develop a comprehensive Holistic Health Sciences manual for both students and teachers

PCTIA sent Shang Hai TCM College a draft copy of the accreditation audit team's report, and gave it 30 days to respond. In the covering letter, PCTIA referred to the report's recommendations as "suggestions." There is no record in PCTIA's file indicating that Shang Hai TCM College responded to this report.

On May 1, 2009, PCTIA sent a letter to Shang Hai TCM College confirming that the institution had been re-accredited.

PCTIA imposed 15 specific conditions on the institution's accreditation, based on the audit team's report, in addition to conditions of general compliance with the agency's bylaws. The conditions had reporting requirements to PCTIA and deadlines to ensure completion. The specific conditions included requiring Shang Hai TCM College to amend its student contracts to ensure admission requirements were on the second page, to maintain records of student clinical practicums, and to adjust the student handbook to include the institution's Grade Appeal Policy. The conditions of the accreditation did not, however, include implementing the accreditation audit team's recommendations to separate the Holistic Health Sciences program from the TCM programs. As PCTIA was not averse to imposing conditions on Shang Hai TCM College's accreditation as a result of the audit team's report, it is unclear why PCTIA did not address the accreditation audit team's recommendations for the Holistic Health Sciences program.

The letter PCTIA sent to Shang Hai TCM College on May 1, 2009, stated that recommendations made in the audit team's report must be addressed in the institution's next annual report. However, there is no evidence in PCTIA's file that PCTIA followed up on these recommendations or that Shang Hai TCM College implemented them in the next annual report. PCTIA removed all conditions on Shang Hai TCM College's accreditation on July 28, 2009.

It is unclear why PCTIA did not address the accreditation audit team's recommendations for the Holistic Health Sciences program.

The Court Issues an Injunction

The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia's lawsuit against the Council of Natural Medicine College of Canada was successful. On September 25, 2009, the Federal Court of Canada found the Council was in breach of trademark laws and issued a permanent injunction prohibiting the Council from adopting, using, licensing or authorizing TCM credentials. The court also declared all Council trademarks invalid.⁴³⁰

In the decision, the court found that the Council had the same address in British Columbia as Shang Hai TCM College. The owner and operator of Shang Hai TCM College was also one of the principals and one of six directors of the Council, and all of the Council's directors lived in British Columbia.⁴³¹

Despite the court's injunction against the Council, Shang Hai TCM College's 2009/10 and 2010/11 student handbooks all stated that the Council granted various licenses and that Shang Hai TCM College students were eligible to take the Council's licensing examination after successful completion of the institution's programs.

Any organization may recognize members of a profession, provide professional development and advocate for the interests of their members. Such an organization cannot, however, usurp the statutory role of another body to decide who can practice a profession and to confer titles on practitioners. The Council's decision to recognize Holistic Health practitioners, an unregulated profession, may not have been problematic in itself. However, the Council could not authorize persons to practice TCM or acupuncture as these professions are regulated by the College, a statutory body. Shang Hai TCM College's student handbooks suggested that all students, whether or not they completed programs regulated by the College, were eligible to take the Council's licensing examination and, through this examination, obtain titles that implied an authority to practice TCM or acupuncture. According to the College's investigation of Shang Hai TCM College in 2007, the institution told prospective students that registration with the Council would allow students to practice. The student handbooks – and Shang Hai TCM College's website – did nothing to dispel this impression.

Student handbooks are critical documents as they contain information about the institution's operations, policies and programs. Students rely on the information in the handbooks, trusting that it is an accurate reflection of the institution they attend and the programs they are enrolled in.

When PCTIA conducted its five-year accreditation audit of Shang Hai TCM College in 2009, the auditors reviewed the student handbook. Following this review, PCTIA required the institution to make changes to the handbook as a condition of the institution's continued accreditation. However, PCTIA did not require Shang Hai TCM College to remove the references to the Council and its licensing powers. Even though PCTIA had copies of Shang Hai TCM College's student handbooks for 2009/10 and 2010/11, we found no evidence in our review of PCTIA's file that the agency had required the institution to correct these references.

⁴³⁰ *College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v. Council of Natural Medicine College of Canada*, 2009 FC 1110. Some of the trademarks registered by the Council included: D.P.C.M. (DOCTORATE IN PHILOSOPHY IN CHINESE MEDICINE); D.P.C.M (DOCTORATE OF PHILOSOPHY IN CHINESE MEDICINE); R. AC. (REGISTERED ACUPUNCTURISTS); REGISTERED D.T.C.M.; R. TCM. P. (REGISTERED TCM PRACTITIONER); C. AC. (CERTIFIED ACUPUNCTURIST); L. AC (LICENSED ACUPUNCTURIST); A.P.D.T.C.M. (ADVANCED POST DIPLOMA OF TRADITIONAL CHINESE MEDICINE).

⁴³¹ *College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v. Council of Natural Medicine College of Canada*, 2009 FC 1110, para 69.

Between 2008 and 2010, Shang Hai TCM College's student handbooks included a Clinical Training Credit Policy. The policy stated that "Clinical training is given to all students.... Students must be under the supervision of Shang Hai TCM instructors.... Clinical Training consists of two components, Acupuncture and Herbology...." The handbooks stated that clinical practicums were part of both the TCM and Holistic Health Sciences programs, but did not distinguish between the clinical training provided to students in the different programs. Based on the information provided in the handbooks between 2008 and 2010, Holistic Health Sciences students would have expected to receive acupuncture clinical training. The handbooks did not state that the College regulated such clinical training.

When we reviewed PCTIA's file, we found no records to demonstrate that PCTIA had questioned the type of clinical training outlined in Shang Hai TCM College's student handbook or the institution's assertions about the Council's licensing powers. Instead, PCTIA continued to re-approve Shang Hai TCM College's registration and accreditation.

Students Begin to Complain

About five months after the court issued its injunction against the Council, the first of many students complained to PCTIA about Shang Hai TCM College. On March 1, 2010, a student submitted a complaint to PCTIA requesting a tuition refund alleging that Shang Hai TCM College had misled him and another student he was representing. The first student requested a refund of \$51,200 he had paid in tuition, and a tuition refund of \$3,800 for the student he was representing. The student who filed the complaint swore an affidavit in support of it. The affidavit alleged that Shang Hai TCM College had misled students in the Holistic Health Sciences programs about their ability to both study and legally practice the skills they were learning.

According to the student, in 2004, Shang Hai TCM College told students that it offered "prerequisite" courses, which, if completed, would allow students to avoid the College's two years of university admission requirement. The student said that, in 2005, Shang Hai TCM College changed the name of these prerequisite courses to "Holistic Health Sciences." Despite this confusing name change, the student said the classes and clinics he was taking did not change. Regardless of what the courses were called, they would not lead to students being able to legally practice or receive clinical training in TCM or acupuncture. Students without two years of university education took Holistic Health Sciences courses and TCM courses concurrently and were in the same classes as students in the TCM program.

The student also stated that Shang Hai TCM College had changed its description of the Holistic Health Sciences program, explaining that students without two years of university experience could be licensed to practice TCM by the Council. The student said that in 2005, Shang Hai TCM College had required him to sign a document stating that he did not have two years of university education and that he knew he would not be able to write the College's licensing examination, but he would qualify for the Council's licensing examination. The student alleged that the operator of the Shang Hai TCM College, who was also the principal of the Council, promoted the Council as a new federal organization that would certify students to practice TCM anywhere in Canada, and that students could earn a Ph.D. or doctorate from the Council. In fact, this would have been contrary to British Columbia's *Degree Authorization Act*, which prohibits non-authorized institutions from granting degrees.⁴³²

Students complained that Shang Hai TCM College had misled students in the Holistic Health Sciences programs about their ability to both study and legally practice the skills they were learning.

⁴³² *Degree Authorization Act*, S.B.C. 2002, c. 24, s. 3 and 4.

Although the student was registered in the Holistic Health Sciences diploma and post-diploma programs, his transcripts showed that he had completed courses in TCM and acupuncture and had received clinical training in every year of his studies. He received a certificate from Shang Hai TCM College, which conferred on him the title of “Acupuncture [sic] and Doctor of Traditional Chinese Medicine” – a title the institution had no authority to grant.

The complaint alleged that Shang Hai TCM College had misled students who did not have two years of university education prior to their studies at the institution. These students believed that successfully completing the Holistic Health Sciences diploma program meant they were not required to register with the College to practice TCM in British Columbia. Instead, students were assured by Shang Hai TCM College that they could practice TCM in British Columbia if they were certified by the Council.

This complaint is compelling evidence that Shang Hai TCM College – as other information PCTIA received had indicated – had used the Holistic Health Sciences program to bypass the College’s requirements for TCM programs. It linked Shang Hai TCM College, which PCTIA was responsible for overseeing, directly to the Council, which had been found in breach of trademark laws as a result of the College’s successful lawsuit.

PCTIA followed its usual process in responding to the student’s complaint. On March 8, 2010, PCTIA notified Shang Hai TCM College that it had received a student complaint and requested the institution’s response, including the student’s file, a description of the internal dispute resolution process followed in responding to the complaint, and a copy of the institution’s dispute resolution policy and procedures.

Meanwhile, PCTIA conducted its regularly scheduled annual compliance visits to Shang Hai TCM College on March 30 and April 12, 2010, during which PCTIA staff interviewed Shang Hai TCM College students. PCTIA’s resulting report includes a section for student interview notes, but it contained little detail related to these interviews. Although PCTIA staff interviewed students from several programs, they noted only that these students knew about their contract, were happy with their education, especially with the quality of English spoken by instructors, and were aware of the admission requirements (exactly which admission requirements was not specified). PCTIA’s file contained no record of whether staff had asked questions related to the complaint received by the agency earlier in the month. The file also did not confirm whether PCTIA spoke with or reviewed the records of any students in the Holistic Health Sciences program.

In the month after PCTIA received the students’ complaint, the agency completed its annual compliance audit and confirmed that Shang Hai TCM College continued to meet PCTIA’s standards.

Despite the allegations made in the students’ complaint, PCTIA proceeded with its regular registration and monitoring processes. PCTIA continued to correspond with Shang Hai TCM College through emails and letters, discussing routine issues such as new bylaw requirements, changes in PCTIA staff, and notices of fee and financial statement deadlines.

The allegations raised in the students’ complaint did not cause PCTIA to conduct any additional monitoring, contact the College, or gather information from other students attending Shang Hai TCM College who may have been similarly affected. Furthermore, the resulting report did not mention Shang Hai TCM College’s continued assertions in its student handbook that graduates were eligible for licensing by the Council.

Meanwhile, following their success against the Council in 2009, the College took legal action against at least three former Shang Hai TCM College students. In July 2010, the courts granted injunctions against these former students after finding that they had been practicing acupuncture and TCM without licenses on the mistaken belief that the credentials they had earned at Shang Hai TCM College and which were granted by the Council entitled them to practice in British Columbia.⁴³³

On September 22, 2010, PCTIA's registrar informed the two student complainants and Shang Hai TCM College that the PCTIA board had reviewed the complaint and decided to refund the students' full tuition of \$51,200 and \$3,800, respectively. Shang Hai TCM College, however, asked the board to withdraw its decision or it would seek a judicial review.

On October 12, 2010, PCTIA conducted a site visit to Shang Hai TCM College. On October 13, 2010, the board decided to reconsider its decision without a hearing. Five days later, PCTIA informed the students that the board had upheld its decision to refund their tuition. Despite the board's decision that Shang Hai TCM College had misled students, and the information in the complaints that suggested many other students were also affected, PCTIA still did not take any enforcement action against the institution. PCTIA also did not notify other current or former students of the board's decision against Shang Hai TCM College.

Shang Hai Closes

On October 25, 2010, PCTIA was called by the media and told that Shang Hai TCM College's doors were locked and signs stated the institution was closed. On the same day, PCTIA appointed three inspectors to visit Shang Hai TCM College. The inspectors found that all student files and computers had been removed from Shang Hai TCM College's premises. At that point, PCTIA finally cancelled Shang Hai TCM College's registration and accreditation, the first enforcement action it had taken against the institution.

On November 2, 2010, PCTIA sent a letter to Shang Hai TCM College requesting that all student files be delivered to PCTIA by November 5, 2010, at 4:00 p.m. The owner of Shang Hai TCM College responded three days later alleging that it was the PCTIA inspectors who had removed the student files during their inspection. The owner also stated that Shang Hai TCM College was no longer operating and would not reopen. It is unclear whether PCTIA ever received the student files.

On December 1, 2010, the Ministry of Advanced Education made an application for an injunction under the *Degree Authorization Act* and the *Health Professions Act* against both Shang Hai TCM College and the Council. On February 7, 2011, 49 business days later, the Supreme Court of British Columbia issued the injunction. The injunction restrained both Shang Hai TCM College and the Council from issuing or offering to issue certificates anywhere in British Columbia indicating or implying that the holder had been awarded a doctoral degree.

PCTIA did not notify other current or former students of the board's decision against Shang Hai TCM College.

⁴³³ "College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia Takes Court Action Against Unregistered Acupuncturists," *Balance*, CTCMA newsletter, Volume 7, Issue 3, Fall 2010, 6 <http://www.ctcma.bc.ca/assets/files/pdf_resources/Home/Meetings%20and%20Publications/16_Newsletter%2010%20Sept.pdf>.

PCTIA's Response to Student Complaints

PCTIA's file shows that at least 22 students requested tuition refunds after Shang Hai TCM College closed.⁴³⁴ However, we were unable to determine based on PCTIA's records exactly how many students actually filed complaints and how many refunds were issued. While students claimed at least \$503,575 in refunds, we only found evidence in PCTIA's file of the board granting \$292,625.74 in tuition refunds.

In support of their claims, Holistic Health Sciences students submitted records from 2003 to 2009, including transcripts showing that they had taken courses and clinical training in TCM and acupuncture. Students also submitted signed documents in which Shang Hai TCM College required them to confirm that they did not have two years of university education, that they would not be able to write the College's licensing examination, but that they would qualify to take the Council's so-called licensing examination.

PCTIA said it reviewed student records during annual compliance reviews and during its 2007 inquiries into Shang Hai TCM College. If this is the case, it is odd that PCTIA did not question these student records. This apparent lack of oversight raises significant questions about PCTIA's monitoring of Shang Hai TCM College. It is particularly noteworthy that two of the students who made complaints to PCTIA about Shang Hai TCM College after it closed were two of the same students PCTIA had flagged in 2007 as not meeting the College's admission requirements. Had PCTIA followed up on the information it received in 2007, it may have protected these two students and many others.

PCTIA initially dismissed 11 of the complaints as being outside the six-month time limit for students to make a complaint.⁴³⁵ PCTIA decided that the injunction issued against the Council of Natural Medicine College of Canada on September 25, 2009, was the date on which students knew or should reasonably have been expected to know that they were being misled by Shang Hai TCM College even though PCTIA itself apparently did not conclude it should have known students were being misled during this time.⁴³⁶ PCTIA asserted that the students had six months from the date of the injunction to make their complaints.

However, PCTIA continued to monitor and approve Shang Hai TCM College's registration for a full year after the injunction, and the institution then closed on its own. PCTIA also did not notify students about the injunction or consider how the court decision might affect their ability to practice TCM. It did not even require Shang Hai TCM College to correct the misleading information about the Council in its student handbook.

⁴³⁴ The majority of the refunds were made on the basis that Shang Hai TCM College had misled students. At least six, but possibly more, students made claims for refunds on the basis of their inability to complete their studies after Shang Hai TCM College closed.

⁴³⁵ Private Career Training Institutions Agency, revised bylaw, 19 June 2014, Part I, s. 44.7. This requires a complaint to be filed within six months from the date on which the event complained about occurred or upon the date when the complainant should reasonably have been expected to know about the issues raised in the complaint. See the Complaints section of this report for further discussion on fair application of time limits in student complaints.

⁴³⁶ PCTIA noted that some students had filed affidavits in support of the Council and Shang Hai TCM College and therefore would have known about the court case. There is no evidence of whether and when the students were made aware of the court's decision, however. As Shang Hai TCM College continued to operate uninterrupted, and PCTIA took no steps to investigate or enforce compliance by the institution after the court rendered its decision, it is unreasonable to expect these students should have known that they were being misled at that time.

PCTIA eventually reconsidered some, but not all, of its decisions to reject student claims for being outside its six-month filing deadline.

The complaints from students showed that Shang Hai TCM College promoted, and students relied on, PCTIA's approval of the Holistic Health Sciences programs as verification of the programs' legitimacy. One student asserted that Shang Hai TCM College used its PCTIA accreditation as a marketing tool to promote the institution's programs, and specifically the Holistic Health Sciences programs.

Lessons to Be Learned

In its interactions with Shang Hai TCM College, PCTIA missed a number of opportunities to assert its role as an effective oversight body mandated to protect students.

Shang Hai TCM College was registered and accredited by PCTIA and had government approval. In some respects, PCTIA regularly monitored Shang Hai TCM College through site visits and a five-year accreditation review, from 2004 until the institution closed in 2010. Similarly, Shang Hai TCM College reported annually to PCTIA and sought approval for new programs. During this same time period, however, there were clues that there were concerns:

- In 2005, PCTIA asked Shang Hai TCM College to stop advertising that the institution was federally licensed, but took no steps to address similar misleading information that subsequently appeared in Shang Hai TCM College's student handbooks.
- In 2006, the websites of both Shang Hai TCM College and the Council contained information suggesting that the Council licensed TCM programs.
- In 2007, PCTIA received information that graduates of Shang Hai TCM College were at risk of not being able to practice TCM and acupuncture.
- In 2009, the federal court issued an injunction against the Council, and in the decision, outlined the Council's relationship to Shang Hai TCM College. The court found that one of the principals of the Council of Natural Medicine College of Canada, which Shang Hai TCM College said was a federal body that licensed its programs, was also the operator of Shang Hai TCM College.
- Also in 2009, PCTIA's accreditation audit team questioned whether Shang Hai TCM College had set up its Holistic Health Sciences program to circumvent the requirements of the governing body, the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia. Following their review, PCTIA's own accreditation audit team concluded that action should be taken to clearly distinguish the goals and objectives of the Holistic Health Sciences program from the TCM programs.

Despite indications of problems with Shang Hai TCM College, PCTIA did not take enforcement action against the institution to deal with these problems. When PCTIA inquired into Shang Hai TCM College in 2007 and 2008, the agency did not request supporting documentation to verify Shang Hai TCM College's explanations about students who appeared not to meet admission requirements.

Although the description of Shang Hai TCM College's Holistic Health Sciences program did not mention TCM or acupuncture training, when it assessed the first complaint from students, PCTIA determined that the institution had led students to believe that they would be able to practice TCM in British Columbia. PCTIA's file contained only one record showing that PCTIA staff spoke with or interviewed students attending Shang Hai TCM College. Regularly speaking with students and conducting more thorough monitoring should have caused PCTIA to take action

The complaints from students showed that Shang Hai TCM College promoted, and students relied on, PCTIA's approval of the Holistic Health Sciences programs as verification of the programs' legitimacy.

The Shang Hai TCM College case demonstrates how important it is for student protection to be the cornerstone of a fair and effective regulatory framework.

earlier. At the very least, it would have helped to make students aware of PCTIA's oversight role.

When students began to complain to PCTIA, the agency decided that the date of the court injunction was the date on which students should have known that Shang Hai TCM College was misleading them. However, PCTIA itself took no further monitoring or enforcement action after the injunction was granted. PCTIA's reliance on the injunction date to determine when students could complain resulted in students being unable to obtain tuition refunds – another missed opportunity for PCTIA to protect students.

The Shang Hai TCM College case demonstrates how important it is for student protection to be the cornerstone of a fair and effective regulatory framework.

1994

- Shang Hai TCM College registers with the Private Post-Secondary Education Commission.

1996

- The practice of acupuncture becomes regulated in British Columbia through the establishment of the College of Acupuncturists of British Columbia.

1998

- December 11 – Shang Hai TCM College is accredited by the Private Post-Secondary Education Commission.

1999

- The mandate of the College of Acupuncturists of British Columbia is expanded to include the practice of traditional Chinese medicine (TCM), and becomes known as the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia.

2002

- The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia's bylaw establishing an admission requirement for TCM programs of two years of university education comes into effect.

2004

- The Private Post-Secondary Education Commission is replaced by the Private Career Training Institutions Agency (PCTIA).

2005

- PCTIA's bylaws require institutions to meet the requirements of governing bodies such as the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia.
- August – Shang Hai TCM College applies to PCTIA to offer a new Holistic Health Sciences diploma program, which includes TCM and acupuncture, but does not meet the admission requirements of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia. PCTIA defers approval of the program until it receives notification from the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia.
- September 19 – PCTIA asks Shang Hai TCM College to remove advertising stating that it is both provincially and federally licensed, as there is no federal government licensing of TCM schools.
- October 6 – Shang Hai TCM College resubmits its application to offer a new Holistic Health Sciences diploma program. Courses related to TCM and acupuncture are removed from this application.
- October 26 – PCTIA approves the new program application for the Holistic Health Sciences diploma program.

2006

- March 10 – Shang Hai TCM College applies to PCTIA to offer a new Holistic Health Sciences post-diploma program in TCM. The application package includes a letter from the Council of Natural Medicine College of Canada stating that it approved the program on August 31, 2004, and that Shang Hai TCM College's graduates would be eligible to apply for certification.
- July 7 – PCTIA replies that it had already approved a Holistic Health Sciences post-diploma in TCM program for Shang Hai TCM College in 2003. Shang Hai TCM College therefore withdraws the new program application and the application fees are refunded.

2007

- August 17 – The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia invites PCTIA by letter to join in its lawsuit against the Council and Shang Hai TCM College. The College suggests that by joining the action, PCTIA could "address the ways in which the public is being misled by [the Council] and Shanghai [*sic*] College." The College warns that graduates are at risk of legal action and loss of employment. The College informs PCTIA that other TCM institutions have reported that Shang Hai TCM College is recommending that students write the Council's examinations and do not register with the College. The College further states that seven Shang Hai TCM College students had recently applied to write the Alberta acupuncture examination and that unregistered students who took clinical training were in breach of the law and their training would not be recognized by the College.
- October 11 – The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia commissions a private investigation and finds that Shang Hai TCM College was telling students there were alternatives to registering with the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia in order to practice TCM in British Columbia, such as registering with the Council.
- October 15 – The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia provides PCTIA with a copy of the private investigation report and an audio recording of the investigators' conversations with Shang Hai TCM College staff.
- October 15 – The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia informs PCTIA that the Council's mailing address and fax number in Ottawa are associated with a store that provides mailbox services.
- November 1 – The College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia holds a press conference announcing that it is taking legal action against the Council.
- December 19 (date handwritten) – PCTIA completes its report on whether Shang Hai TCM College students met the two-year university admission prerequisite as required by the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia. PCTIA finds that 11 students do not have the admission prerequisite on file. There is no record that PCTIA ever interviewed students during its inquiries.

2008

- February 14 – PCTIA approves a new post-diploma program in Holistic Studies for Shang Hai TCM College.
- February 29 – PCTIA sends a letter to Shang Hai TCM College asking for a response as to why 11 students do not have the required admission prerequisites.
- March 6 – Shang Hai TCM College responds that the 11 students are not required to meet admission prerequisites for various reasons. Shang Hai TCM College also asserts that students without the admission prerequisites could obtain a practicing license in Alberta, but does not explain how this could be done.
- March 17 – PCTIA confirms to Shang Hai TCM College that the admission prerequisites do not apply to the 11 students, without reviewing documentation or otherwise verifying the institution's information.

2009

- PCTIA conducts a five-year accreditation audit of Shang Hai TCM College.
- March 20 – External accreditation audit team members and PCTIA's staff identify two issues to discuss with Shang Hai TCM College: (1) whether the institution is abiding by the two-year university admission requirement, and (2) whether the Holistic Health Sciences program is an attempt to circumvent the two-year university admission requirement.
- April 3 – An accreditation audit team, including external subject matter experts, recommends that clear goals and objectives and a comprehensive manual should be created for Shang Hai TCM College's Holistic Health Sciences program in order to separate it from the TCM programs. These recommendations are not adopted as conditions to accreditation by PCTIA.
- July 28 – PCTIA removes all conditions on Shang Hai TCM College's accreditation.
- September 25 – the Federal Court of Canada grants the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia an injunction against the Council, prohibiting the Council from adopting, using, licensing or authorizing TCM credentials.
- December 28 – the College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia amends its bylaws to allow students to complete the two years of university education after completing an approved course of TCM training and before they begin to practice.
- Shang Hai TCM College's 2009/10 student handbook states that the Council grants various licenses and that the institution's students are eligible to take the Council's licensing examination after successful completion of the institution's programs.

2010

- March 1 – a student submits a complaint to PCTIA alleging that Shang Hai TCM College has misled him into believing that he could practice TCM in British Columbia.
- April 12 – PCTIA completes its annual compliance audit and confirms that Shang Hai TCM College meets PCTIA's standards.
- Shang Hai TCM College's 2010/11 student handbook states that the Council grants various licenses and that the institution's students are eligible to take the Council's licensing examination after successful completion of the institution's programs.

- September 22 – The PCTIA board decides that the student has been misled by Shang Hai TCM College and orders a tuition refund of \$51,200.
- October 18 – The PCTIA board upholds its decision to issue a tuition refund in the student complaint.
- October 25 – PCTIA learns from the media that Shang Hai TCM College has closed. PCTIA inspectors attend the campus and confirm that the institution is closed. PCTIA cancels the Shang Hai TCM College's registration and accreditation.



Appendix 2 – The Regulation of Private Career Training Institutions in British Columbia: A Timeline, 1936–2014



1936–1977

Private post-secondary education in British Columbia has been regulated since 1936 when the *Trade-schools Regulation Act* was enacted to “correct abuses and eliminate unfair practices in the operation of trade-schools.”⁴³⁷ The Act initially only regulated schools that offered training in traditional trades such as carpentry, mechanics and hairdressing.⁴³⁸ The government expanded the types of trade-schools that were regulated in 1942 to include, for example, schools teaching photography, journalism, radio equipment repair and business management.⁴³⁹

Under the *Trade-schools Regulation Act*, no trade-school was allowed to operate in the province unless it first registered with the Minister of Labour.⁴⁴⁰ Schools were required to re-register annually⁴⁴¹ and the minister had the authority to inspect registered institutions at any time.⁴⁴² If, as a result of an inspection, the minister was unsatisfied with the means or costs of instruction at a school, the minister could cancel a trade-school’s registration.⁴⁴³ Financial penalties could be levied against institutions that gave instruction either without being registered or in a manner outside of the scope of their registration contract.⁴⁴⁴

The *Trade-schools Regulation Act* remained in force for the next four decades. Any changes to the oversight framework were, for the most part, dealt with through regulations. The Act itself was amended twice.

In 1937, the government issued the first in a series of detailed regulations concerning the operation of barber⁴⁴⁵ and hairdressing schools.⁴⁴⁶ These regulations established rules for advertisements, hours of operations and instructor qualifications, and contained provisions to ensure that hairdressing and barber schools were not on the same premises as hairdressing or barber shops. The regulations also set out detailed pricing schemes for services provided by students to the public.

⁴³⁷ Bob Cowin, “Agencies and Organizations,” *Made in B.C. – Volume VI: A History of Postsecondary Education in British Columbia*, 2012, 14.

⁴³⁸ *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 2. Under the Act, “trade” was defined as “the skill or knowledge requisite for or intended for use in an industrial or commercial occupation, calling, or vocation, and without derogation from the generality of the foregoing, includes the construction, building, repair, and operation of aeroplanes, steam engines, boilers, internal-combustion engines, machinery of all kinds, bricklaying, building, carpentry, the work of a stone-mason, plastering, plumbing, the fabrication of iron and steel, aviation, mining, lumbering, barbering, beauty-culture, hairdressing, millinery, and any other occupation, calling, or vocation designated as a trade by the regulations.”

⁴³⁹ *Trade-schools Regulation Act Amendment Act*, 1941–1942, s. 2(b). The 1942 amendments to the Act expanded the definition of “trade” to include accountancy, commercial and industrial art, advertising, business management, general and specialized manufacturing, mechanical dentistry, laboratory attendants and technicians, pharmacy, photography, personal service, chiropody, manufacture, repair and operation of radio and electrical equipment, general and specialized therapeutics, salesmanship, journalism, story-writing, and home and nursery service.

⁴⁴⁰ *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 3.

⁴⁴¹ *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 6.

⁴⁴² *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 7.

⁴⁴³ *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 8.

⁴⁴⁴ *Trade-schools Regulation Act*, S.B.C. 1936, c. 54, s. 9.

⁴⁴⁵ *Special Regulations Governing Barber Schools*, B.C. Reg. 202/1959.

⁴⁴⁶ *Special Regulations Governing Hairdressing Schools*, B.C. Reg. 203/1959.

Also in 1937, the government created special regulations for trade-schools operating through correspondence and home study courses. To protect student tuition, these regulations required that such schools “deposit and keep with the Minister of Labour [...] a security deposit for the purpose of securing the due performance of the contracts entered into by the school.”⁴⁴⁷ The same regulation also established rules regarding advertising and fees charged by this type of trade-school.

In 1942, the Act was amended to give Cabinet authority to issue regulations prescribing instruction materials, methods and instructor qualifications. Cabinet was also given the power to regulate how trade-schools advertised and sold their courses, including representations made by agents or salespeople for the school.⁴⁴⁸

Using these new regulatory powers, in 1942, the government established general regulations that applied to all trade-schools in the province. These regulations:

- made the owner of a trade-school responsible for all statements made by its representatives or employees⁴⁴⁹
- prohibited advertising that was misleading, failed to provide the name or address of the school, was included in the “help wanted” classified section of a newspaper or which guaranteed employment⁴⁵⁰
- required the minister to approve the format of all contracts for the sale of tuition, and required all contracts to set out the subjects included in the program and all of the applicable fees, including tuition⁴⁵¹
- prohibited the trade-school from charging any fee not set out in the contract, without the written permission of the minister⁴⁵²
- empowered the minister to require trade-schools to deposit security with the ministry to ensure they carried out their contractual responsibilities⁴⁵³
- made it the responsibility of operators of trade-schools to comply with all health, safety and sanitation regulations within the school premises⁴⁵⁴
- made it the responsibility of operators of trade-schools to provide and maintain adequate and suitable premises, equipment, tools, books, courses and materials for students⁴⁵⁵

As these regulations indicated, it was the responsibility of institutions to decide whether they were providing adequate instruction to students in terms of the quality of their courses and materials. A trade-school was, however, required to ensure that it had enough sufficiently trained and experienced instructors “as the Minister may determine is necessary” to properly operate the school and deliver its programs.⁴⁵⁶

In 1964, the *Trade-schools Regulation Act* was amended to prohibit the operators of trade-schools from charging fees for hiring students, procuring employment for students, or providing students with potential employment information.

⁴⁴⁷ *Special Regulations Governing Correspondence and Home Study Schools*, B.C. Reg. 201/59.

⁴⁴⁸ *Trade-schools Regulation Act Amendment Act*, S.B.C. 1941–1942, s. 3(c).

⁴⁴⁹ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 3.

⁴⁵⁰ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 3.

⁴⁵¹ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 5.

⁴⁵² *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 5.

⁴⁵³ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 5.

⁴⁵⁴ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 2.

⁴⁵⁵ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 4.

⁴⁵⁶ *General Regulations Governing Trade-schools*, B.C. Reg. 200/1959, s. 10.

In 1971, the regulations were amended to require all regulated trade-schools conducting practical or resident training to post a security deposit to protect student tuition.⁴⁵⁷ Previously, this had only been required of home-study or correspondence schools.

1977–1990

In 1977, the new *Apprenticeship and Training Development Act*, 1977 was passed.⁴⁵⁸ It came into force in 1978. Section 34 of the new Act repealed in 1979 the *Trade-schools Regulation Act* and the *Apprenticeship and Tradesmen Qualification Act*, which regulated apprenticeships. There was therefore a brief period where the old Acts and the new Act overlapped. The new Act focused primarily on the regulation of trade apprenticeships, the establishment of trade advisory and apprenticeship committees and empowerment of the Minister of Labour to enter into agreements relating to trades requiring an apprenticeship. In 1979, the *Apprenticeship and Training Development Act* was renamed the *Apprenticeship Act*.

The occupations listed in the 1977 definition of “trade” show a shift toward occupations that required an apprenticeship period.⁴⁵⁹ While the earlier legislation had regulated schools that taught dressmaking, salesmanship, advertising, journalism, story-writing, home and nursery service and business management, the new definition excluded all of these. Although the *Apprenticeship Act* did include in its definition of “trade” occupations such as hairdressing, cooking, baking and embalming, the overwhelming majority of the listed trades related to construction, manufacturing and heavy industry.⁴⁶⁰ This meant that the *Apprenticeship Act* deregulated many formerly regulated trade-schools whose programs did not fit within the new list, from accounting and salesmanship to photography and industrial art.

In addition to the revised definition of “trade,” the new Act was less prescriptive than the earlier legislative framework. It gave Cabinet a general set of powers to regulate trade-schools, which were never used.⁴⁶¹ It also gave significant responsibility to the office of the newly established Director of Trade-Schools. The director was responsible for the implementation and administration of the Act, but without a regulatory framework in place, it was not clear how implementation should occur. The director was responsible for managing the registration of trade-schools and tuition fees and could set a school’s hours of instruction and conditions of enrolment.⁴⁶² The director was also responsible for requiring each trade-school to post a security bond “for such amount and subject to such terms and conditions as he may specify.”⁴⁶³ This meant that the director had discretion about whether to require a trade-school to post security and to set the conditions of that security. It was anticipated that the details of the bond would vary depending on the nature of the school, the number of students attending or likely to attend and the nature of the tuition charged.⁴⁶⁴

⁴⁵⁷ *Regulation Amending B.C. Reg. 200/59 – General Regulations Governing Trade-schools*, B.C. Reg. 273/1971.

⁴⁵⁸ *Apprenticeship and Training Development Act*, S.B.C. 1977, c. 65.

⁴⁵⁹ Bob Cowin, “Agencies and Organizations,” *Made in B.C. – Volume VI: A History of Postsecondary Education in British Columbia*, 2012, 14.

⁴⁶⁰ *Apprenticeship and Training Development Act Regulation*, B.C. Reg. 584/1979, Schedule A.

⁴⁶¹ *Apprenticeship Act*, R.S.B.C. 1979, c. 17, s. 31(1).

⁴⁶² *Apprenticeship Act*, R.S.B.C. 1979, c. 17, s. 22 and 24.

⁴⁶³ *Apprenticeship Act*, R.S.B.C. 1979, c. 17, s. 23(1)(a).

⁴⁶⁴ Louis Williams, British Columbia Legislative Assembly, Hansard, 7 September 1977, 5296, <https://www.leg.bc.ca/hansard/31st2nd/31p_02s_770907p.htm>.

A report prepared in 1977 by the Commission on Vocational, Technical and Trades Training in British Columbia determined that in 1976 there were 102 regulated trade-schools. By 1979, there were 137 schools serving 23,000 students. Only five years later the Ministry of Labour reported 308 schools were serving 35,000 students.⁴⁶⁵ By 1989, a news report stated there were 465 schools.⁴⁶⁶

Despite this significant and rapid growth, the director and a single assistant were the only public servants responsible for overseeing trade-schools.⁴⁶⁷ In a 1988 news report, the director stated that he had stopped requesting financial statements from schools in 1982 because the ministry did not want to be “overly intrusive” in the financial affairs of the institutions.⁴⁶⁸ This meant that there was, according to one report, “no financial or formalized monitoring taking place at the time.”⁴⁶⁹ These were decisions made at the administrative level and were not mandated by the legislation. The available historical record indicates that these decisions were likely an outcome of both the rapid expansion of the trade-school industry and the lack of resources given to the Office of the Director of Trade-Schools.

In 1985, the *Apprenticeship Act* was amended to replace “trade-school” with “private training institution,” but this change was not coupled with an expansion of the director’s mandate.⁴⁷⁰

In the late 1980s, at least six private training institutions that had accepted student tuition closed without delivering all or part of the education their students had paid for.⁴⁷¹ The types of training provided by these schools included English as a second language, secretarial training and business courses. Consequently, it is not clear that they met the definition of “private training institution” in the Act. As a result, some of their students may not have had the protection of a security bond.

In 1989, two years before the repeal of the *Apprenticeship Act*, a ministerial order referentially incorporated “all skills and occupations listed in the alphabetical index of the Canadian Classification and Dictionary of Occupations (CCDO)” into the Act for the purpose of defining “private training institution.”⁴⁷² The CCDO included nearly 300 pages of occupations, from abattoir foreman to zyglo tester. Although this greatly expanded the potential scope of the *Apprenticeship Act*, its focus continued to be on training that led to employment.

1990–2004

In part as a result of the attention that the school closures received, along with the rapid expansion of the private education industry, the *Private Post-Secondary Education Act* was passed in 1990⁴⁷³ and fully came into force in 1994.⁴⁷⁴ Debate in the legislature before the *Private Post-Secondary Education Act* was passed reflected

⁴⁶⁵ Bob Cowin, “Apprenticeship and Pre-Apprenticeship Training,” *Made in B.C. – Volume V: A History of Postsecondary Education in British Columbia*, 2012, 25.

⁴⁶⁶ Frances Bula, “Private schools to get rules,” *The Vancouver Sun*, 14 Nov 1989, B7.

⁴⁶⁷ Anita Hagen, British Columbia Legislative Assembly, Hansard, 25 April 1988, 4044-4045 <https://www.leg.bc.ca/hansard/34th2nd/34p_02s_880425p.htm>.

⁴⁶⁸ Ben Parfitt, “Monitor private schools, MLA urges,” *The Vancouver Sun*, 21 Jan 1988, A3.

⁴⁶⁹ Ben Parfitt, “Monitor private schools, MLA urges,” *The Vancouver Sun*, 21 Jan 1988: A3.

⁴⁷⁰ *Miscellaneous Statutes Amendment Act (No. 2)*, 1985, s. 2 to 6.

⁴⁷¹ Barry Jones, British Columbia Legislative Assembly, Hansard, 22 May 1990, 9748 <http://www.leg.bc.ca/hansard/34th4th/34p_04s_900522p.htm>.

⁴⁷² Ministerial Order, 185, 18 October 1989.

⁴⁷³ *Private Post-Secondary Education Act*, S.B.C. 1990, c. 64.

⁴⁷⁴ Order-in-Council, 1280, 21 August 1992 and Order-in-Council, 1208, 15 September 1994.

concerns that the existing regulatory framework was not effectively monitoring private for-profit training institutions:

*The private training institutions in the province have grown by leaps and bounds. There are something like 40,000 students in the private training institutions of B.C. at this stage, and there are over 400 schools ... These 400 schools are administered by one registrar and his assistant. Two people in this province do all the work associated with the private schools of the province. With the exception of schools that have their own boards and are non-profit and accountable to the society they represent, obviously it's a caveat emptor situation for students. Indeed, we recently had an inquiry about a franchise college in Vancouver, where the students were charged \$4,000 for six months of classes from 9 a.m. to 1 p.m. It was a travel class where they had an ancient atlas, some out-of-date material from a travel agency and no teaching materials. We were told by the registrar of the private institutions: "Yes, there have been some problems with that particular operation. We suggest you go to another one, and we hope it won't happen again." What else could they do? There is no accountability for 400 institutions.*⁴⁷⁵

The *Private Post-Secondary Education Act* was implemented and administered by the Private Post-Secondary Education Commission. Beginning with five staff members,⁴⁷⁶ the Commission regulated any "training or instruction" provided to adults by a private post-secondary educational institution.⁴⁷⁷ This definition did not reference career training, which meant that all non-exempted, private, adult education institutions, including private language schools, were also regulated by the Commission. This definition significantly broadened the scope of the 1990 Act as compared to the *Apprenticeship Act*.

The *Private Post-Secondary Education Act* introduced a two-tiered regulatory framework. It featured mandatory registration for all providers of post-secondary education⁴⁷⁸ and a voluntary accreditation process,⁴⁷⁹ a first for Canada but a well-established practice in the United States.⁴⁸⁰

The Commission began operations in 1992. In 1993, about 400 institutions were registered with the Commission. By 1998, 40 institutions had become accredited and the Commission's staff had grown to eight, and by 2003, the number of registered institutions had grown to 1,134.⁴⁸¹

Under the *Private Post-Secondary Education Act*, consumer protection focused on requiring registered institutions to post bonds, cash or letters of credit to protect student tuition fees. A student could apply to the Commission for a tuition refund if he or she learned that an institution was not registered or, if in the executive director's opinion, a student was misled "as a result of a representation made by an institution or its agent regarding the institution or any aspect of its operations."⁴⁸²

⁴⁷⁵ Anita Hagen, British Columbia Legislative Assembly, Hansard, 25 April 1988, 4044-4045 <https://www.leg.bc.ca/hansard/34th2nd/34p_02s_880425p.htm>.

⁴⁷⁶ Bob Cowin, "Agencies and Organizations," *Made in B.C. – Volume VI: A History of Postsecondary Education in British Columbia*, 2012, 14.

⁴⁷⁷ *Private Post-Secondary Education Act*, S.B.C. 1990, c. 64, s. 1.

⁴⁷⁸ *Private Post-Secondary Education Act*, S.B.C. 1990, c. 64, s. 5.

⁴⁷⁹ *Private Post-Secondary Education Act*, S.B.C. 1990, c. 64, s. 11.

⁴⁸⁰ Bob Cowin, "Agencies and Organizations," *Made in B.C. – Volume VI: A History of Postsecondary Education in British Columbia*, 2012, 14.

⁴⁸¹ Bob Cowin, "Agencies and Organizations," *Made in B.C. – Volume VI: A History of Postsecondary Education in British Columbia*, 2012, 14.

⁴⁸² *Private Post-Secondary Education Act*, S.B.C. 1990, c. 64, s. 28.

2004

In 2004, the *Private Post-Secondary Education Act* was repealed and replaced by the *Private Career Training Institutions Act*. This Act created the Private Career Training Institutions Agency (PCTIA), a self-regulating body with a narrower jurisdiction than the Commission.⁴⁸³ PCTIA was funded solely from fees charged to the institutions it regulated. The decision to introduce a new regulatory model was a result of the government's core services review.⁴⁸⁴

Institutions holding valid registration or accreditation certificates under the old legislation were deemed to have been registered or accredited under the new legislation.⁴⁸⁵ In 2006, PCTIA regulated 521 private career training institutions, of which 206 were accredited.⁴⁸⁶ This was a significant decrease from the 1,134 institutions (including language schools) that were included in regulation only three years earlier.

The new Act introduced some key changes from the previous regulatory framework:

- PCTIA was governed by a board composed mostly of representatives of private career training institutions who were elected by representatives from other institutions.
- Private language schools were no longer regulated.
- It created a centralized Student Training Completion Fund for student tuition refunds into which all registered institutions were required to pay and which was administered by PCTIA.

British Columbia was and remains unique among Canadian provinces in having private career training institutions regulated by an arms-length agency. All other provinces regulate private post-secondary institutions as part of the ministry responsible for post-secondary institutions.

2007

Within three years of establishing PCTIA, the provincial government released a report on the future of post-secondary education in British Columbia. One of the recommendations in the report was to conduct an independent review of the only recently in force *Private Career Training Institutions Act*.⁴⁸⁷

On the basis of this recommendation, the provincial government asked John Watson, a former assistant deputy minister of advanced education, to review the effectiveness of the existing legislative and regulatory framework governing British Columbia's private career training institutions and private language schools, and to advise the government on changes that could build on the existing regulatory framework.

Watson's review resulted in a report published on January 10, 2008, which contained 13 recommendations for improvement. The recommendations focused on enhancing student protection, increasing institutional accountability and quality

⁴⁸³ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 2.

⁴⁸⁴ Hon. Shirley Bond, British Columbia Legislative Assembly, Hansard, 9 October 2003, 7292 <<https://www.leg.bc.ca/hansard/37th4th/H1009am-13.pdf>>.

⁴⁸⁵ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 29.

⁴⁸⁶ Private Career Training Institutions Agency, *Enrolment Report 2009*, 4 <<http://www.pctia.bc.ca/pdfs/PCTIA%20Focus%20on%20Enrolment%202009.pdf>>.

⁴⁸⁷ Geoff Plant, "Access and Excellence: The Campus 2020 Plan for British Columbia's Post-Secondary Education System," report, April 2007, 57.

assurance,⁴⁸⁸ and included a recommendation that private language schools be brought under the jurisdiction of PCTIA.⁴⁸⁹

2008

On March 6, 2008, the provincial government amended the *Private Career Training Institutions Regulation* to exclude instruction and training for occupations related to driving motor vehicles and for the occupation of driver training instructor from PCTIA's jurisdiction.⁴⁹⁰ The amendments took effect on April 1, 2008.

2009

In 2009, the provincial government introduced the Education Quality Assurance (EQA) designation. All post-secondary institutions in British Columbia, including private career training institutions, are eligible to apply for the EQA designation. Seeking EQA designation is voluntary. The EQA program administers a trademark seal that is licensed to British Columbia post-secondary institutions (both public and private) that have "met or exceeded" quality assurance standards recognized by the provincial government. Approved institutions are permitted to include the seal on their promotional materials and on their websites. This is intended to allow students to "easily identify the provincial institutions the government of BC recognizes as having met quality assurance standards and that offer consumer protection to learners."⁴⁹¹ An EQA designation demonstrates, to the public and prospective students, that the institution displaying it has the approval and endorsement of the provincial government.

EQA is available to all post-secondary institutions in British Columbia, but all institutions do not have to meet the same educational standards to obtain EQA. To qualify for EQA designation, post-secondary institutions must meet the quality assurance requirements that apply to that type of institution. These requirements vary. Private career training institutions applying for EQA designation must meet the accreditation standards of PCTIA, and be in good standing with both PCTIA and the ministry.⁴⁹² Institutions must reapply annually to retain their EQA designation.⁴⁹³

Currently, private language schools that apply for EQA designation must also meet PCTIA's quality assurance standards for accredited institutions. Like the career training institutions, the language schools must also maintain good standing with PCTIA and the ministry.⁴⁹⁴

⁴⁸⁸ John Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008), 35-37.

⁴⁸⁹ John Watson, *Private Career Training Institutions Act Review* (Victoria: British Columbia Ministry of Advanced Education, 2008), 12-14.

⁴⁹⁰ Order-in-Council, 146, 6 March 2008.

⁴⁹¹ Ministry of Advanced Education, British Columbia Education Quality Assurance, "About EQA" <http://www.aved.gov.bc.ca/education_quality_assurance/welcome.htm>.

⁴⁹² Ministry of Advanced Education, *Education Quality Assurance Policy & Procedures Manual*, updated 17 October 2014, 5. According to the manual, institutions will be considered to be "not in good standing" with the ministry if they misuse the EQA brand, are not in good standing with the corporate registry, contravene the federal *Immigration and Refugee Protection Act* and/or its regulations, are in non-compliance with the federal-provincial/territorial "Imagine Education au/in Canada" framework, or are not in good standing with any applicable quality assurance bodies.

⁴⁹³ Ministry of Advanced Education, *Education Quality Assurance Policy & Procedures Manual*, updated 17 October 2014, 7. <http://www.aved.gov.bc.ca/education_quality_assurance/docs/manual.pdf>.

⁴⁹⁴ Ministry of Advanced Education, *Education Quality Assurance Policy & Procedures Manual*, updated 17 October 2014, 4 <http://www.aved.gov.bc.ca/education_quality_assurance/docs/manual.pdf>.

While the EQA administrators do have discretion to reject an institution they determine is not suitable for receiving EQA designation, the suitability criteria focus on the administration of an institution rather than the quality of the instruction provided.⁴⁹⁵

Also in 2009, the government amended the *Private Career Training Institutions Act*. These amendments implemented some of the recommendations of the Watson Report:

- Section 15 of the Act, which sets out how the PCTIA board may administer the Student Training Completion Fund, was amended effective June 1, 2009, to authorize the board to refund a portion of the tuition fees paid to a registered institution if “in the opinion of the board,” the institution “has misled a student regarding the institution or any aspect of its operations.”⁴⁹⁶ This amendment broadened the circumstances under which students could request tuition refunds. Previously, students could only obtain refunds if the institution had closed.
- Effective June 1, 2009, the Act was amended to include as one of the objectives of PCTIA: “to establish basic education standards for registered institutions.”⁴⁹⁷ It was left to the PCTIA board to establish, through its bylaws, the content of the basic education standards.

The government also made amendments to the *Private Career Training Institutions Regulation* in 2009. One amendment required that institutions repay PCTIA amounts awarded to students through the Student Training Completion Fund if students had been misled.⁴⁹⁸ The government also added provisions to the regulations to require institutions with a history of non-compliance to pay a higher rate for the maintenance of the Student Training Completion Fund.⁴⁹⁹

In response to these legislative changes, PCTIA also made substantial amendments to its bylaws in 2009. Of particular relevance to the Watson Report recommendations was an amendment requiring all registered institutions to have a dispute resolution policy and to provide that policy to students prior to the signing of the student enrolment contract.⁵⁰⁰ The amended bylaws also set out basic educational standards to be adopted by institutions along with a process for students to make claims against the Student Training Completion Fund on the basis that they were misled.⁵⁰¹

2012

In 2012, the government moved to a results-based process for assessing accredited private career training institutions.⁵⁰² This change in approach was reflected in a further round of amendments to the PCTIA bylaws that same year, including the addition of a bylaw requiring accredited institutions to implement an evaluation process that results in continuous quality improvement.⁵⁰³ In addition, PCTIA

⁴⁹⁵ Ministry of Advanced Education, *Education Quality Assurance Policy & Procedures Manual*, updated 17 October 2014, 6 <http://www.aved.gov.bc.ca/education_quality_assurance/docs/manual.pdf>.

⁴⁹⁶ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 15.

⁴⁹⁷ *Private Career Training Institutions Act*, S.B.C. 2003, c. 79, s. 3(a).

⁴⁹⁸ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.1(1).

⁴⁹⁹ *Private Career Training Institutions Regulation*, B.C. Reg. 466/2004, s. 5.

⁵⁰⁰ Private Career Training Institutions Agency, revised bylaw, 1 June 2009, Part V, s. 24(1)(d).

⁵⁰¹ Private Career Training Institutions Agency, revised bylaw, 1 June 2009, Part V, s. 20; Private Career Training Institutions Agency, revised bylaw, 1 June 2009, Part VII, s. 35.

⁵⁰² Ministry of Advanced Education, “Province Continues Improvements to Education Quality,” news release, 31 January 2008; Private Career Training Institutions Agency, *2011–2012 Annual Report*, 31.

⁵⁰³ Private Career Training Institutions Agency, revised bylaw, 25 May 2012, Part F, s. 33.

amended other bylaws concerning the information that it required from institutions seeking registration or accreditation.

2012–2013

On December 29, 2012, Citizenship and Immigration Canada changed the regulations regarding student study permits issued through the International Student Program.⁵⁰⁴ The new regulations, which came into force on June 1, 2014, required British Columbia to provide a list of institutions that met provincial quality assurance requirements and were authorized to enrol international students with study permits. Only institutions on Citizenship and Immigration Canada's designation list could enrol international students.

Partly in response to these proposed changes, the Ministry of Advanced Education published a Green Paper on a post-secondary quality assurance framework in March 2013.⁵⁰⁵ The Green Paper proposed significant changes to the regulatory framework for all post-secondary education in British Columbia, including PCTIA-regulated institutions.

The Green Paper proposed that all post-secondary institutions in British Columbia, including public and private degree-granting institutions, private career training institutions, private language schools and First Nations-controlled institutions, should be regulated by a single "program review" body.⁵⁰⁶ The Green Paper suggested processes by which educational quality would have been evaluated at different institutions. One of the potential outcomes of these processes would have been to determine which institutions could be designated to receive international students.

The Green Paper was aimed at beginning a consultation process with stakeholders involved in post-secondary education in British Columbia. In less than nine months, however, there was another change and, in late 2013, it became clear that the ministry no longer intended to implement the "one size fits all" approach to quality assurance set out in the Green Paper, and was moving in a new direction.

2014

In March 2014, the PCTIA bylaws (primarily those related to student contracts and financial requirements for institutions) were significantly amended by ministerial order.⁵⁰⁷ One month later, in April 2014, the Minister of Advanced Education announced that he had dissolved the PCTIA board, appointed a public administrator to carry out the board's functions, and would integrate PCTIA's functions into the ministry.⁵⁰⁸

The December 29, 2012 changes to federal immigration regulations became effective on June 1, 2014. In response, the provincial government made its EQA designation introduced in 2009 a requirement for EQA public and private post-secondary institutions and language schools that wished to admit international students to programs lasting more than six months (these are known as designated

⁵⁰⁴ *Regulations Amending the Immigration and Refugee Protection Regulations*, Canada Gazette, Part 1: Notices and Proposed Regulations, Vol. 146 (2012), 29 December 2012.

⁵⁰⁵ Ministry of Advanced Education, "Quality Assurance Framework British Columbia," Green Paper, March 2013.

⁵⁰⁶ Ministry of Advanced Education, "Quality Assurance Framework British Columbia," Green Paper, March 2013, 31.

⁵⁰⁷ Ministerial Order, 055, 6 March 2014.

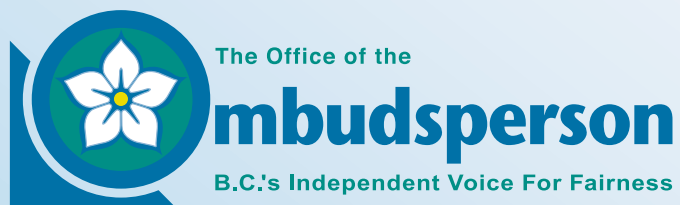
⁵⁰⁸ At the end of February 2014, we notified the Ministry of Advanced Education and PCTIA that we were commencing a systemic investigation into the regulation and oversight of private career training institutions in British Columbia.

institutions).⁵⁰⁹ For both language schools and private career training institutions, this meant they would first have to apply for accreditation through PCTIA. The new requirement is to be phased in over 18 months, between June 2014 and December 2015.⁵¹⁰ For programs of less than six months, a person can come into the country on either a visitor visa or a study permit. Institutions must be designated to accept persons on a study permit. If a person is on a visitor visa, however, the above rules do not apply.



⁵⁰⁹ This is a result of changes to federal government regulations regarding student visas: see “2012–2013,” above. For programs of less than six months, a person can come into the country on either a visitor visa or a study permit.

⁵¹⁰ The Ministry of Advanced Education has stated that by December 2015, every post-secondary institution and language school that hosts international students on study permits will be required to have EQA.



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