



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Citizenship and Immigration

CIMM • NUMBER 156 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Monday, May 6, 2019

—
Chair

Mr. Robert Oliphant

Standing Committee on Citizenship and Immigration

Monday, May 6, 2019

• (1530)

[English]

The Vice-Chair (Hon. Michelle Rempel (Calgary Nose Hill, CPC)): Good afternoon, colleagues. We'll call meeting 156 of the 42nd Parliament of the Standing Committee on Citizenship and Immigration to order.

Could you indulge me by having some conversations on the record about what we've discussed informally, for the benefit of the clerks?

First of all, my best wishes and congratulations for the elevation of our current/soon-to-be former chair. I thank him for his service.

It's my understanding that there has been agreement among the parties to reschedule the latter component of the agenda today, scheduled to take place at 6:30, to a date to be determined, but preferably—for the benefit of our colleagues sitting at this table—as soon as possible.

I would look to the will of the room for a motion to that effect, or a general consensus that we are good with that approach.

Mr. Whalen.

Mr. Nick Whalen (St. John's East, Lib.): If we can squeeze it in quickly within 15 minutes, we might get it in this week, but if we feel we need the full hour, then I don't think it will be able to happen this week. It will have to be next week, before we break. We have to provide the instructions before the constituency week.

The Vice-Chair (Hon. Michelle Rempel): That is understood, so perhaps we can commit to having some discussions among ourselves on scheduling that as soon as possible, and provide direction to the clerk and other clerk staff as soon as possible.

Some hon. members: Agreed.

The Vice-Chair (Hon. Michelle Rempel): That's wonderful.

This afternoon, we have the minister in front of us.

Minister, you have seven minutes to present your remarks, and then we will open up the floor for questions.

Hon. Ahmed Hussen (Minister of Immigration, Refugees and Citizenship): Thank you, Madam Chair.

Colleagues, it's a pleasure to appear once again before this committee.

[Translation]

I'd like to begin by thanking the committee for its work on studying the issue of immigration consultants.

[English]

The committee produced a very thorough report, which we carefully studied and relied upon in developing the government's proposal. I am very pleased to say that we are implementing the vast majority of the committee's 21 recommendations.

The work of this committee put an important light on the dishonest and predatory practices of some unregulated or unscrupulous consultants, and the real harm they cause to people's lives. This is exactly why our government took the time to develop a thoughtful, multi-faceted plan to address the current gaps and to strengthen the way we protect the public.

Madam Chair, like all my colleagues around this table, in my role as a member of Parliament I have heard harrowing stories of exploitation and suffering from my constituents. Prior to that, when I practised immigration law, I saw the real impacts and harm that unscrupulous and unregulated consultants cause to our clients. It is the responsibility of governments to do all we can to stop this kind of unethical, damaging behaviour.

At the same time, we must acknowledge that there are many honest and ethical professionals who provide important services to clients, and help them to navigate the immigration system. They, too, suffer from the damage inflicted on their reputation and their profession by the bad apples among them.

It is imperative to create a system that better protects everyone involved. While fraudsters will always seek ways to benefit themselves, we can make it harder for them to succeed, and deter others from seeking to do the same.

I have been intently focused on improving the immigration system. We have made great strides in reducing processing times, eliminating backlogs, modernizing client experiences and enhancing our service delivery. Our hope is that by making these improvements, it will be easier for all clients to access our services, without necessarily relying on a lawyer or an immigration consultant.

That being said, there will always be a demand for service providers, particularly as more people than ever before are choosing Canada as their destination to visit, study, work or build a new life.

While there have been several attempts in the past, the reality is that the field of immigration consulting has never been properly regulated. The current framework fails to provide the tools, the mandate and the oversight the regulator needs to effectively carry out its work of regulating. When the previous government designed the current regulatory body, for some reason it failed to set up the statutory framework that the body required, despite previous studies that had recommended it be done.

[*Translation*]

Our government is proposing a three-pronged strategy.

[*English*]

First, we will overhaul how consultants are regulated by creating a new statutory regime for the profession. The college of immigration and citizenship consultants will have the explicit responsibilities and new authorities necessary to govern the profession properly, ensure consumer protection, and hold consultants to a very high standard of professional and ethical conduct.

A first-ever statutory regime puts consultants on the same footing as other regulated professionals in Canada, including lawyers, doctors and other trade professions. Clients of licenced consultants who do not receive ethical or competent advice will have, as recourse, a robust complaints and disciplinary process, which includes new powers for the college to effectively investigate complaints against its members. This includes the ability to enter the premises of a consultant to investigate when wrongdoing is suspected, as well as the ability to request court injunctions against unauthorized consultants.

Under the new legislation, the college will be required to establish a fund to compensate people who have been victimized and exploited by a consultant. In addition, the college will establish tiered licensing for providing different types of services. It will also introduce new educational and training requirements for anyone who wants to become a consultant.

The new regulatory framework will be coupled with very strong government oversight. This includes the authority for the Minister of Immigration to appoint public interest directors to the board, design a code of conduct, designate a civil servant observer to the board, step in if the college is failing to perform as expected and make regulations that govern the conduct of the college.

The second area of focus is compliance and enforcement. Budget 2019 commits \$51.9 million to strengthen protections against fraudulent consulting practices. While the regulator will be responsible for discipline and professional conduct, the government will be responsible for enforcing the law. Therefore, we will be providing more resources to the Canada Border Services Agency to pursue criminal investigations. We will also be increasing criminal penalties. We will also establish a new administrative regime to penalize non-compliance that doesn't amount to criminal behaviour. The bill proposes the establishment of monetary penalties and bans to be administered by IRCC.

Finally, the government will launch robust public awareness activities in Canada and abroad to help clients protect themselves. This includes placing dedicated community outreach officers in our visa offices abroad. Budget 2019 will also be used for the translation

of materials into other languages, making them more accessible to our clientele; social media messaging; and posters, pamphlets and other materials to be placed at visa application centres abroad.

Madam Chair, this committee's recommendations on stronger oversight, more effective regulation, better deterrence mechanisms and expanded public awareness activities were key in helping the government develop this plan. Our primary objective is to protect our clients from fraud and to stop those who choose to prey on vulnerable people.

• (1535)

[*Translation*]

Thank you. I look forward to answering your questions.

[*English*]

The Vice-Chair (Hon. Michelle Rempel): Thank you, Minister.

The first round will go to Mr. Whalen.

Mr. Nick Whalen: Thank you very much, Madam Chair.

Thank you for coming, Minister. This is a great opportunity for us to have a second look now at some solutions to long-standing issues with immigration consultants that not just this government has faced, but previous ones as well.

After the 2008 study that the Conservatives undertook, they amended the college, but there has always been some concern that there weren't strong enough enforcement mechanisms.

Can you provide us some assurances that you believe that the current enforcement mechanisms are sufficient and maybe summarize the key ones for us?

Hon. Ahmed Hussen: Thank you. That's a really important point to make.

I think the previous government's establishment of the body was a step in the right direction. However, unfortunately, the ICCRC was not given adequate tools to really enforce its mandate. There were limitations in the ability of the professional body to, for example, enter the premises of a business when there was a suspicion that an immigration consultant was not upholding the standards of the ICCRC. Also, there were other issues around its ability to provide enough deterrence in its mandate—to set up a compensation fund, for example, which is what we are proposing here.

They will be moving forward a requirement to set up insurance that will be available to people to pursue. In addition to that, we're coupling all these measures for the college with our own enforcement—more investigations, more enforcement and certainly more oversight in terms of making sure there are penalties and consequences to this behaviour. The criminal penalties are being doubled, and there will be a new regime of administrative monetary penalties that will be introduced for behaviour that doesn't quite meet the criminal threshold but is egregious enough to warrant intervention. In those cases, we'll be able to do that.

Finally, the college will be empowered to also publish the names of folks who are undergoing disciplinary processes, just like any other professional regulator.

Mr. Nick Whalen: That might be a good segue to my next question. It seems that our government has had the opportunity to put in other self-regulatory bodies in this mandate. Intellectual property professionals have a college now.

What teachings has your department relied on in coming up with this model of self-governance yet strong governmental oversight in terms of the accountability on the board and also in terms of additional and stronger criminal penalties?

Hon. Ahmed Hussen: We looked at all the recommendations in the committee's report, and I really want to thank the members of this committee for their really important work on the report. The recommendations that were contained in that report were very crucial to our crafting of this policy, and the vast majority of the proposals that I'm presenting are actually based on the recommendations from the committee.

In terms of self-regulation with greater government oversight, this is the standard for many professions. It is to make sure that the self-regulating professional body has a code of conduct for its members; that there is a compensation fund; that there is insurance; that there is adequate training to make sure folks are receiving the training necessary to become competent and meet the expectations of our clients; that there is a mechanism in place with the body to take really strong action against its members who do not meet the standards expected of them; and finally, to empower the college to also go after the unauthorized consultants by going to court and seeking injunctions against them.

Again, that is coupled with the steps that I spoke about, increasing the criminal penalties—in fact doubling them—and introducing this administrative monetary penalty regime, which I think will have a serious deterrent effect on those who seek to prey on our clients.

• (1540)

Mr. Nick Whalen: My final question is a quick one. Although I wasn't a full-time member of the committee at the time, I did attend one of the meetings during the study and we heard a lot about fraud committed overseas, not by Canadians at all but by overseas actors who are taking advantage of their fellow citizens who are trying to emigrate to Canada from those countries. What steps is the government taking in this regard to address those types of fraud?

Hon. Ahmed Hussen: There are a number of steps. This is a really good question. Of course, due to jurisdictional issues, our law enforcement does not have reach there; however, there's a lot we can do.

The first thing is to simplify the immigration process so that our clients don't necessarily have to go to an immigration lawyer or an immigration consultant, and in that, we've done a lot. We've updated more than 500 web pages to make the information easier to find. We have streamlined a number of application forms for things like spousal sponsorship. One of the reasons we were able to make a lot of headway in reducing the processing time there was that we simplified the number of forms that people had to fill out. We also invested heavily in outreach and information-sharing with our key markets, so that the clients, the foreign nationals, can see who to rely

on and avoid the unauthorized consultants and those who have a bad record.

The Vice-Chair (Hon. Michelle Rempel): Mr. Whalen.

Mr. Nick Whalen: I have one quick question. The not-for-profit act was the mechanism the previous government established. Now we're doing a stand-alone act for consultants. Is there any particular rationale for that?

Hon. Ahmed Hussen: Yes. I believe that this piece of legislation will enable the college to finally become a fully functional, self-regulatory professional body with the tools to do the job we require.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Genuis.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you very much, Madam Chair. It's good to be here and to see you, Minister.

You said the changes made by the Conservatives were steps in the right direction. Given the things you normally say about Conservatives, I'll take that, and thank you very much.

Of course, those were always intended as a first step. After three and a half years of not seeing any action on this, I think people recognize that further steps are needed. We've been calling for those.

Minister, we've talked about the legal framework. I want to make this concrete because I think there are some ambiguities. We talked about a code of conduct that has yet to be developed. Let me give you a hypothetical. Actually, it's not that hypothetical—it might be something you've heard in your own riding. Say a person comes to Canada under a temporary visa. They're coming to visit. They're coming from a safe country. They're getting advice from an immigration consultant and they want to look for ways to stay longer. The immigration consultant suggests that they claim refugee status, which is not something we want people doing if they're coming from a safe country. Subsequently, that person's refugee claim is rejected. They're removed, and they become subject to other kinds of limitations. Essentially, they're acting on advice, and it's advice they shouldn't have been given.

What would happen to the consultant in that case? Would the person who is affected have any recourse, given that they were acting on the advice of a consultant? Do you envision this sort of thing being covered by a code of conduct?

• (1545)

Hon. Ahmed Hussen: On the issue of why we're acting at this time, we had to make sure that we got this right. Many governments have tried to tackle this issue, and they have failed. We took the necessary time, including studying the report extensively, to make sure that this happens.

This will be sorted out in the code of conduct, the training, the disciplinary processes, and the tiered licensing systems that will be set up by the college. That's our expectation. They'll do the work necessary, and the government will set the direction.

As to what the college will map out for its members—what is and what is not ethical or unethical conduct, or what is competent advice and what is beyond the training—that is something they'll develop. They'll develop that training. They'll develop that licensing process. This is something they'll work on with their members to ensure that clients are protected.

Mr. Garnett Genuis: I understand you're saying that they're going to develop a code of conduct and work with the members, but people who are affected, potentially, by the very real type of situation I've described—in which somebody is given bad advice and they're trying to navigate the system—will be looking for a clear answer from you on this type of case. For example, if somebody comes in on a temporary visa and claims refugee status even though they're not actually a refugee, should the code of conduct lead to the disciplining of a consultant in that case? Should the code provide for recourse for the individual who was affected?

Hon. Ahmed Hussen: I'm not going to get into what the college training will look like, or the different levels of licensing the college will establish. Those are granular details that the college will grapple with.

Having said that, I can tell you that our first priority will be to equip the college, for the first time ever, to be able to protect clients. That includes making sure that the immigration consultants who are members of the college provide competent service and good advice to their clients.

Mr. Garnett Genuis: Minister, I think people are concerned about the existing regulatory body, and this has been highlighted in a unanimous report by this committee. You've left the door open, in this legislation, to having the same body take over under the renamed and relatively similar framework you've established. You're telling us, on all of these important detail questions, real-life situations of people giving bad advice, that you don't want to get that “granular”.

I would submit to you that this is not fair to people out there who are trying to form opinions about this legislation and trying to understand what the impact on them will be. The door is being left open to a flawed body to take over this work, and you're saying you don't want to get into such a granular level of detail. Is that really fair?

Hon. Ahmed Hussen: No, you asked me about a specific set of circumstances—

Mr. Garnett Genuis: Yes.

Hon. Ahmed Hussen: —on a specific case. What I can tell you is that there will be proper recourse for discipline and compensation. For disciplinary issues and compensation of people who have received—

Mr. Garnett Genuis: Effectively we have to trust that framework.

Hon. Ahmed Hussen: No, for the first time there will be a professional liability insurance requirement to be established by the

college. There will be a compensation fund, which doesn't exist now. To say that it's more of the same, I think is a little unfair.

Mr. Garnett Genuis: The same body could be put in charge.

I want to briefly ask you this. The current framework speaks about people being regulated if they're giving advice for a fee. Would the current legislative framework be invoked if somebody is giving immigration advice but not for a fee?

Hon. Ahmed Hussen: To go back to your previous question, this is not just the body by itself. The government will have oversight over this. There will be—

Mr. Garnett Genuis: I'm almost out of time. Could you just answer that specific question? Would this apply to people who give immigration advice but not for a fee, essentially giving immigration advice for free?

• (1550)

Hon. Ahmed Hussen: If they're giving immigration advice and they're not authorized to do so, they would be unauthorized consultants and—

Mr. Garnett Genuis: But would they be considered a consultant for the purposes of this legislation if they are not receiving a fee?

Hon. Ahmed Hussen: They would be considered unauthorized consultants.

Mr. Garnett Genuis: Even if they're giving it for free?

Hon. Ahmed Hussen: You cannot give immigration advice when you're not competent to do so—

Mr. Garnett Genuis: A person who gives—

Hon. Ahmed Hussen: —when you haven't received the training and—

Mr. Garnett Genuis: A person who gives immigration advice is still covered by this legislation even if they're not being paid a fee. If, let's say, a refugee sponsor organization is giving immigration advice informally to somebody else, would this same legislation apply to them?

Hon. Ahmed Hussen: There's a difference between providing advice on settlement and integration, and then actually giving either legal advice or pseudo-legal advice on the Immigration and Refugee Protection Act. In that case you would have to have training.

The Vice-Chair (Hon. Michelle Rempel): Thank you, and you're out of time.

We move to Ms. Kwan.

Ms. Jenny Kwan (Vancouver East, NDP): Thanks very much, Madam Chair, and thank you to the minister.

My first question is this. The committee made a unanimous recommendation to you, Minister, that the self-regulatory aspect be done away with. In fact, I think we were unanimous in saying that the industry cannot be trusted anymore to do this work.

Yet, under this scenario, ICCRC is given this work with an expanded scope. Maybe in a short answer, can you explain to me why the government would go with an action that actually does not meet what the committee has recommended?

Hon. Ahmed Hussien: Just to make it clear, we accepted the vast majority of the recommendations in the report. That particular one we looked at very seriously. We considered it. We studied it. There were a number of issues with it and at the end of the day we were guided by the ultimate goal of making sure that we set up the best possible structure to serve clients and to make sure that people are protected.

For comparison, in the existing mechanism, for example, the code of conduct is set by the board of directors. In the proposed approach, it will be set by the minister of immigration and any changes to the code of conduct will have to be approved by the minister of immigration.

Ms. Jenny Kwan: I appreciate that there are differences, but there's a fundamental piece, which is the issue around trust of the industry itself. All around this table, every committee member, expressed very clearly that they did not feel that the industry could be trusted to be self-regulated anymore. That's why it was a unanimous recommendation for it to be government regulated and for it not to be regulated by the industry. In any event, you've decided not to proceed with that, and that's as clear as day.

I am troubled by this. Out of that study, the ICCRC, at the time when we studied this issue, had 3,600 members. At the end of December 2016, there were 1,710 complaints, almost one complaint for every two members. I would just flag that in terms of the significance of the issues before us. When you hear the stories of the people who've been cheated by these bad actors in the system and the lack of remedy for them, it's breathtaking. That's not even all of the people who actually went forward with the complaints.

I'm going to park that for a minute.

Now, you say in this new act that anybody who's not licensed would not then be able to provide immigration-related advice to individuals. My question to you is, what about the NGOs and the resettlement agencies? Are they covered by this act as well?

Hon. Ahmed Hussien: First of all, to reiterate the point, the key is to prevent vulnerable people from being taken advantage of, which is really what we're dealing with. We work closely with the over 500 settlement provider organizations that we fund to make sure that people know the difference between providing advice on settlement integration and providing legal advice on immigration matters. I believe for the sake of the clients, for the sake of the workers, it is important to distinguish between those two.

Filling out forms and giving some help is administrative work, but giving legal advice to a client is unauthorized and would be subject to this.

• (1555)

Ms. Jenny Kwan: NGOs would be covered by this.

Hon. Ahmed Hussien: We're not targeting NGOs, but we're saying that if you're going to provide immigration advice, you should be competent to do that. You need the training and the necessary education.

Ms. Jenny Kwan: How will this act deal effectively with what's called the "crooked consultants" who are overseas and the "ghost consultants" as some people call them? Or would it?

Hon. Ahmed Hussien: I want to make one thing clear: no model of regulation, including direct government regulation or self-regulation, has the ability to completely eliminate the activities of unauthorized or ghost consultants, especially when you're talking about their being abroad. We are doing what we can to increase funding for CBSA to conduct investigations, to conduct more enforcement operations—

Ms. Jenny Kwan: Sorry, Minister, I only have two minutes left.

Is it fair to say this act would not address ghost consultants?

Hon. Ahmed Hussien: Of course it would, by doing a number of things, but you're not letting me finish. If you want me to give you an answer, I will.

On the issue of ghost consultants, it does by making sure we can obtain injunctions against them, that they will be able to conduct more investigations. We are introducing administrative penalties and consequences to make sure those folks are caught and made to pay for taking advantage of vulnerable clients. Finally, we're doubling the amount of the criminal fines that are available to us to go after these individuals.

Ms. Jenny Kwan: Will you have a system whereby consultants would be on a registered list, and if you're not on the registered list, then you will not be a consultant authorized to practise immigration law or give immigration advice here in Canada? If you are an applicant from a different country who has sent in an application with someone who is not on that list, would that applicant be informed immediately?

Hon. Ahmed Hussien: That's exactly what I was saying in my speech. Outreach officers we're deploying abroad will inform people of the list of authorized immigration consultants who are in good standing with the college, so they can use the services of those immigration consultants.

Ms. Jenny Kwan: So if someone makes an application through a ghost consultant, would that individual who's made the application be informed that this consultant is not on a registered list and, therefore, this application cannot be received, or for this application to be received, they have to change their consultant?

The Vice-Chair (Hon. Michelle Rempel): You're out of time; please answer in 10 seconds.

Hon. Ahmed Hussien: The college will have members in good standing and that will be public information and we'll encourage our clients to access that information and only use the services of those consultants.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mrs. Zahid.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Madam Chair.

Thanks, Minister, for coming today to provide us with some important information.

When we did our study on the consultants, we heard from a lot of witnesses. I hear from my constituents in Scarborough all the time that many issues around the consultants would be reduced if the people who are using these consultants' services know about their rights and their options. Can you please explain how this legislation would address that issue?

Hon. Ahmed Hussen: Very importantly, domestically we will be doing proactive outreach using the various tools at our disposal, including social media, our website, making sure we engage our clients proactively. It's also the deterrence, making sure we'll be able to target unauthorized consultants directly; IRCC will be able to do that.

Domestically, the new college will be able to send cease and desist letters to unauthorized consultants, and if they continue, then the college will be authorized to seek court injunctions to prevent them from practising in that field. In addition to that, we will have more money for criminal investigations, increasing the ability of CBSA to pursue unauthorized consultants, doubling the criminal fines and introducing the administrative monetary penalties that are very high, so they can have a serious deterrent effect.

• (1600)

Mrs. Salma Zahid: I see that there is \$51.9 million in budget 2019, and this includes funding for outreach and education and creating public awareness.

What will that entail?

Hon. Ahmed Hussen: It will entail the government prioritizing the presence of our staff in key source markets for immigrants and to beef up that staff with outreach officers who can engage our clients proactively to tell them which consultants to use.

We'll also be using some of that funding to update application guides and kits, and for changing the application forms to make it easier for clients to use them and help themselves without requiring the services of a lawyer or a consultant.

It's also communicating directly with our clients, in addition to the consultants. If it's an unauthorized or crooked consultant who doesn't do the job they were hired to do, the client sometimes doesn't know, because we are dealing with their representative, who is the consultant.

We will be introducing a new measure where we'll be copying the client to make sure that when we are contacting the consultant, the client also knows about it. They can take action. They can be made aware when the consultant doesn't submit their application or hasn't done some of the work that they were supposed to do.

Mrs. Salma Zahid: One other issue, which we heard about during our study and which we hear from the constituents all the time, is the complexity of the forms. I think that in an ideal world, many people would not need the immigration consultants if the process were not that complex.

As well, as there are language and cultural barriers for people who have to use the process, it makes it difficult for people to navigate, causing them to turn to the consultants.

How are you addressing the complexity, so that fewer people have to use the services of consultants?

Hon. Ahmed Hussen: Thank you. That's a really good point.

Client service has been a key priority of mine. It's in my mandate letter. It means not just improving processing times and eliminating backlogs, but it also means improving the application processes, streamlining the forms, making sure that the website and the various information on the website is easily accessible and understood, and changing the application forms to make them easier.

It also means directly communicating with our clients to make sure they know the latest update in their application.

We're looking to create five new positions for outreach officers in 2019-20. One locally engaged staff will be in Chandigarh, India; Beijing, China; Abu Dhabi, UAE; Ankara, Turkey; and Nairobi, Kenya. The initial deployment of those five officers will be to do the outreach and information sharing with our clients from the visa offices so that the clients can avoid being taken advantage of.

Mrs. Salma Zahid: Okay.

In our report, we made a number of recommendations around the need for greater education for the consultants and for higher standards and different tiers of licensing, based on the services offered and the consultant experience.

How does this legislation address those recommendations that were made?

Hon. Ahmed Hussen: The new college will be expected, by the regulations, to make sure that there is adequate, constant training, to make sure that immigration consultants who are members of the college have the training to make them competent and able to provide very good services to our clients.

The current regulator has been also working towards tightening requirements for entry into the profession of immigration consulting.

In the fall of 2018, the regulator launched a process to identify potential providers of a post-graduate diploma program, and on May 1, 2019, the council announced the launch of this new program.

In the interim, as the provisions of the bill relating to the college don't come into force until royal assent, we expect that the regulator will conduct business as usual but continue what it is doing to strengthen the entry requirements for its members and also beef up those requirements and the expectations it has of its members.

• (1605)

Mrs. Salma Zahid: Thank you.

The Vice-Chair (Ms. Jenny Kwan (Vancouver East, NDP)): Ms. Rempel, for five minutes.

Hon. Michelle Rempel (Calgary Nose Hill, CPC): Thank you.

Minister, the report suggested that the immigration minister should not be the minister responsible for any new regulatory body. Which minister is going to be responsible for overseeing this new body?

Hon. Ahmed Hussen: The Minister of Immigration, Refugees and Citizenship.

Hon. Michelle Rempel: It was noted in the report and unanimously put forward that the Minister of Immigration should not be the minister responsible for oversight, given the CBSA component related to it. Did you reject that recommendation?

Hon. Ahmed Hussen: We didn't reject any recommendation. We took the report, studied it extensively, also understanding that this is something that many governments prior to us tried to fix—

Hon. Michelle Rempel: Thank you.

Hon. Ahmed Hussen: —but failed, so we took the necessary time —

Hon. Michelle Rempel: Thank you.

Hon. Ahmed Hussen: —to study the recommendations.

Hon. Michelle Rempel: You've talked extensively in previous questions about the concept of legal advice and the immigration-consulting profession. Could you define, since you're in charge of overseeing this, what you would constitute as legal advice in the immigration consulting profession?

Hon. Ahmed Hussen: I will defer to my officials on this question.

Ms. Natasha Kim (Acting Associate Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration): Thank you, Minister.

In terms of section 91, which sets out the requirement, it is around immigration advice or representation. That would be actually advising on someone's application or representing them in their application before us or before tribunals such as the Immigration and Refugee Board of Canada.

Hon. Michelle Rempel: Would providing advice on what to put in a form to have maximum potential for acceptance not constitute legal advice in this regime?

Ms. Natasha Kim: In our view, we would likely believe that does constitute advice if you're trying to provide advice on a certain outcome, rather than, for example, transcribing within a form or translating—

Hon. Michelle Rempel: Who would be responsible for interpreting whether or not legal advice was provided in a complaint?

Ms. Natasha Kim: It would depend on which recourse was at issue at that moment.

Hon. Michelle Rempel: Is that clear in the code of conduct right now? The code of conduct does not set out...The minister has said that the oversight body would be responsible for writing it. Just to be clear, that interpretation of the concept of legal advice is not yet laid out.

Hon. Ahmed Hussen: Madam Chair, that's not what I said.

Hon. Michelle Rempel: Could you clarify?

Hon. Ahmed Hussen: I said the code of conduct is currently set by the board of directors of the current regulatory body, but in the

future, as per this proposal, the code of conduct will be set by the minister. Any changes would have to be approved by the minister.

Hon. Michelle Rempel: Certainly. The concern I have, and that members from the legal profession have had, is that a lot of the fraud and abuse in this industry occurs at the margin of what we would constitute legal advice. There have been a lot of recommendations, but actually moving the profession under the auspices of the legal profession, given that there's clearly defined jurisprudence around what constitutes legal advice...I just don't really see how this...I guess I'll put my questions into this regard.

I'm looking at this from the perspective of end-users who have been abused by somebody, where we have seen casework in any of our offices where they've had advice to fill out a form a certain way. We're not quite sure about the interpretation of what constitutes legal advice.

Then we have an oversight body that came to this committee, and frankly, was very juvenile in its presentation, I think we would all agree on that. Are you now saying that you, as the Minister of Immigration, are taking on the responsibility of defining what would constitute legal advice in that situation if the board continues to fail? How would an end-user have any other extra recourse or ease of complaint process versus what we've had before?

Ms. Natasha Kim: Perhaps I can elaborate on my earlier comments where the actual requirement around the prohibition on giving advice or representation on an immigration application, that's set out in section 91 of the Immigration and Refugee Protection Act —

•(1610)

Hon. Michelle Rempel: That's the issue where the complaints are right now.

Ms. Natasha Kim: There would be an elaboration of that, for example, in our program delivery instructions. We also regularly engage and work with non-governmental organizations or service delivery providers, settlement-providing organizations, to actually provide more clarification on the parameters.

Hon. Michelle Rempel: Thank you.

The Vice-Chair (Ms. Jenny Kwan): Next we have Mr. Sarai.

Mr. Randeep Sarai (Surrey Centre, Lib.): Thank you, Minister.

As you know from our previous study, this is an important issue. As other members have stated, we have constituents coming in all the time who were affected either by ghost consultants or others, and therefore, that was the reason for the study.

I'm happy to see that it will be a statutory regime. How is the new statutory regime different from the current regulatory regime?

Hon. Ahmed Hussien: It is much more stringent. It is very focused on the protection of clients. It sets up for the first time a compensation fund so that people who are wronged can have access to some sort of a financial remedy. It also sets up mandatory insurance for the members.

It really tightens the disciplinary process. In the current regime, there is no authority to compel witnesses, for example, to appear and to give testimony. In the proposed approach, the college will have the statutory authority to summon witnesses to appear and to testify. There will be consequences for obstructing the complaint and discipline process.

There will be a new prohibition on using the title “immigration consultant” or “citizenship consultant”. Right now, if the regulatory body wants to enter the premises of a consultant who's suspected of engaging in activity that is not within the bounds of the body, it requires the co-operation and the consent of the member to enter those premises. In the proposed approach, the college will have the statutory authority to enter the premises of the consultant for the purposes of investigations of misconduct, to search the premises, to seize documents, to require documents or to require that information be provided to the college.

Mr. Randeep Sarai: Then, under this new regime, will they be able to go after ghost consultants who are not regulated? That was a concern we had the last time: that the previous organization was not able to go after anybody who was not licensed.

Hon. Ahmed Hussien: That's one of the tools that the regulator lacked. I'm very happy with the fact that we will now be able to provide the necessary tools for the regulator to do its job. Under the new approach, the new regulator will have the ability to send cease and desist letters to unauthorized consultants, and it will also have the ability to seek court injunctions against those very same unauthorized consultants.

Mr. Randeep Sarai: Will it be similar to how the law societies or the Royal College of Physicians and Surgeons protect their industries from, for example, somebody who is pretending to be a lawyer or pretending to be a doctor?

Hon. Ahmed Hussien: Absolutely. It's exactly the same. However, in addition to that, I just want to make it clear that everything is not being left to the regulator. IRCC and CBSA will have a lot of activity to support the protection of clients. As I said, the introduction of the administrative monetary penalties, which are very, very high—they have a very high limit—will, I believe, deter and punish that behaviour, as well as CBSA's having more ability and more resources to conduct criminal investigations. Doubling of the criminal fine will also act as a deterrent and a punishment.

Mr. Randeep Sarai: In terms of the compensation fund for those who are victimized, will that be beefed up with CBSA provisions? For example, on one side would be unscrupulous consultants or ghost consultants who overcharged, under-delivered or promised things that they could not or should not have promised, and on the other side would be people who are losing their immigration status because of this ill-founded advice. Would CBSA be able to bridge and help them out in situations where they've been duped or mishandled, as well as get compensation? How would that work in that kind of scenario?

Ms. Lori MacDonald (Acting Deputy Minister, Department of Citizenship and Immigration): Actually, the compensation fund will be set up so that people can apply. Criteria will be established in terms of regulations with respect to how the fund can be operated. They will be determined through consultation and feedback. It is separate from what CBSA will do in terms of investigation. It will be established and determined through a set of criteria on its own. The CBSA will do the broader and more complex investigations relating to those multipronged, larger, complex criminal investigations.

• (1615)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Tilson.

Mr. David Tilson (Dufferin—Caledon, CPC): On this compensation fund that you're talking about, this doesn't preclude the client from bringing a personal action against the consultant or bringing a personal action against the lawyer, which they can do now. They can bring an action against a lawyer. Can they bring an action in the courts, aside from your compensation fund, against the consultant?

Ms. Natasha Kim: Absolutely: they would still have the normal recourse that they currently have available.

Mr. David Tilson: Yes, I assumed that.

I'm a little confused, Minister, by your comments about the bylaws and rules, in that you—not you personally, but the minister—would be setting forth the bylaws and rules. I was led to believe that the regulator would set the bylaws and rules, and that if you thought they were inappropriate, by using regulation through the Governor in Council you could override those rules. I wonder if you can clarify the rules and bylaws that will be set by someone, either by you or by the regulator?

Ms. Lori MacDonald: Actually, the regulator will establish the rules and bylaws through the composition of the board, which will set up the framework for that, but ultimately, the minister, in terms of oversight, can have a direction or a say in terms of the code of conduct or the rules that are there, to ensure that the board that's establishing them is respecting the intent of the legislation and the regulations as they are set out.

Mr. David Tilson: How would the minister do that? Are there guidelines?

Ms. Lori MacDonald: The board of regulators will establish, based on advice and guidance from the department and from their own body, what they would see as prudent in terms of the code of conduct but also in terms of bylaws. They'll transfer a number of their best experiences and advice that they've established to date.

Mr. David Tilson: Right.

We've had a number of hearings in the last decade or so, at least three times that I can recall, and one of the big complaints we've heard was about the consultants' fees. We have had people come here and say that their fees are outrageous.

With the lawyers, there's a process by which their fees can be assessed and generally reduced, although not always. Are you going to have a similar process for consultants so that if someone doesn't like the fees that are being charged, there would be a process of assessing those fees?

Ms. Lori MacDonald: Thank you, Madam Chair.

Yes. They actually will be set out in regulations in terms of the fees as well.

Mr. David Tilson: I don't mean that. If a client doesn't like the fees of the consultant, what right does that client have to challenge those fees?

Ms. Lori MacDonald: Yes, there will be a dispute mechanism established in the bylaws so that they can actually dispute those fees.

Mr. David Tilson: Can you assist us as to what's planned for that? That's one of the major complaints we've had against consultants.

Ms. Natasha Kim: Madam Chair, the act sets out that there would be a bylaw authority to establish that so that it could be addressed, similar to law societies.

Mr. David Tilson: Yes, I understand that. Is it going to be approved by a court? With the legal fees, lawyers have to go before a court official who assesses the fees. Will there be a court official who will approve or not approve those fees?

Ms. Lori MacDonald: The board itself will establish the fees.

Mr. David Tilson: All right. That's to come. The bill hasn't been exactly... The regulator hasn't been held in exactly the highest esteem possible. Otherwise, we wouldn't have had all of these hearings or reviews at this committee. Why should we have confidence that this new body will succeed where the current regulator has failed if it's run by the same people involved at the top?

•(1620)

The Vice-Chair (Hon. Michelle Rempel): You have 10 seconds, Minister.

Hon. Ahmed Hussien: Because we will establish the code of conduct, we will have presence on the board and we will have a new statutory authority to.... It's not the same body. It'll be a college. We're talking about two different things.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Tabbara.

Mr. Marwan Tabbara (Kitchener South—Hespeler, Lib.): Thank you.

Mr. Tilson was talking about the fees. I wanted to go over that.

We heard many individuals' testimonies when we had these meetings, and they said that some individuals were experiencing high fees compared to other consultants. In the new process, what are some of the protections now in your measures?

It says that there will be a fee mediation committee to help broker fee disputes. If you could give it to us in general terms, what would that look like? How would the dispute work between various consultants who are charging similar rates? Would there be a certain rate for similar services?

Ms. Lori MacDonald: We haven't established it to that degree as of yet. That will be part of the work that is to come for the board in

terms of establishing their bylaws, what those fees will look like and what dispute mechanisms will be put in place for those.

Mr. Marwan Tabbara: Okay, so it's in process.

For all of us at the committee here, I think that protection for clients is the number one priority, and I think that's all everyone at the committee is trying to get to.

A lot of clients felt very vulnerable coming forward with complaints. They felt that if their application was in process, though they may have a concern, they'd just leave it alone so that maybe their paperwork would go through correctly. They had already invested such and such dollars and wanted to get their families over, so there was a fear of making a complaint.

How does this new regulation help with filing a complaint for those individuals who are coming forward with a complaint?

Hon. Ahmed Hussien: I think it is with the reorganization of the college and putting forward a new college, a new self-regulating body that will have public interest directors and will maintain and serve the public interest to make sure that its top priority is the protection of the public. Once that is established, based on that direction, we expect that they will put mechanisms in place to make sure that people who come forward with a complaint are not adversely affected and that there is transparency in the process.

This is why we're also investing in the outreach officers to make sure that our clients are aware of who to use as legitimate consultants, and having the body make sure that training and competency is a top priority, to protect the public. We expect the new college to provide those processes.

In the event that this council does not continue, a new corporation will be established, which will become the new college. Either way, we'll get this done, and the priority will be the protection of the public.

Mr. Marwan Tabbara: You alluded to my last question, which is licensing and training. We're looking at a tiered licensing system with these new measures. There's more education. There's more training for a lot of these consultants. How is that going to benefit our number one priority, which is protecting the client? This is probably more training and a more rigorous educational program compared to what we had previously. Could you elaborate on that?

Ms. Natasha Kim: There would be the authority to establish tiered licensing. Essentially, tiered licensing is establishing tiers for those practising, both in terms of eligibility requirements and the scope of practice.

For example, someone may have a limited scope of practice to advise on international student applications, or they may have a general scope of practice to advise on all sorts of immigration applications. The statute provides that if they were to actually represent before a tribunal such as the IRB, extra education would be required.

•(1625)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Ms. Kwan, you have the floor.

Ms. Jenny Kwan: Thanks very much, Madam Chair.

For the protection of the end-user, who would be the applicant, in the event that an individual's representative has been incompetent or even to some degree ineligible to do the work that they undertook to do, a complaint process would be enacted, but aside from the compensation aspect, what about the application itself?

A lot of people fear that by coming forward with a complaint, their application would be rejected or that they would be somehow penalized. Is there protection for the applicant in that context? If so, what is the protection mechanism?

Ms. Lori MacDonald: A couple of things I think are really important here. As we transition to our new body, one of the pieces of work we will be doing is identifying some of the issues that are coming out of what we see from unscrupulous consultants or people giving bad advice. We have a number of mechanisms we're putting in place to be able to assess some of that information so it doesn't become just a stop-and-start kind of initiative. So if someone's application is in process, and we transition to the new body, if there's an issue in terms of who has given them advice we help them through that process.

We're doing an international survey to find out where people are getting their advice from. We're doing education and guidance with our VACs internationally so they can help educate them in terms of what they are putting in their application. So if they do identify, hey, I think maybe I don't have one of those consultants, or I think perhaps my application maybe isn't filled out correctly, they can identify it to us so we can assist in that process, in terms of sorting through that.

Ms. Jenny Kwan: No. Sorry. What I mean is in the process, as the person is embarking in the process they realize that things have gone awry so they go to a complaint process and say, look, this immigration consultant advised me X, Y, Z, and these things, by the way, are wrong. That is wrong information or whatever.

Is that application then rejected with that outcome, or will they have an opportunity to say, look, I got bad advice? Can they ask to have a new representative come forward and still have their application alive, as an example, and for it to continue to proceed and for the wrong information to be corrected to go forward?

Ms. Lori MacDonald: We will do two things. We will look at that in terms of what they brought forward to us. We will also ask them if they would like to put a complaint in so we can continue to monitor their application, see what's been in their process and find out if it is true that they have been given wrong advice.

Ms. Jenny Kwan: That work is being done by IRCC and not the college?

Ms. Lori MacDonald: The application process has to follow its regular application process. At the same time, they can put a complaint into the college in terms of fear that they have been given inappropriate or unqualified advice.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

We will suspend briefly to set up for the next panel. Thank you.

• (1625)

_____ (Pause) _____

• (1630)

The Vice-Chair (Hon. Michelle Rempel): We will continue with our questions.

Our first round is led by Mr. Tabbara.

Mr. Marwan Tabbara: Thank you, Madam Chair. Thank you again for being here for the second hour.

I want to continue on with questioning about complaints, and, again, sticking with the theme of protection of the clients.

We often have heard that clients are often given wrong advice, or have paid a substantial amount of funds for a particular service. If that has been the case for the client, in the complaints process that we've put in place, we have put in additional tools to deal with complaints and disciplinary matters, and the authority by statute to search the premises and inspect the copy records.

If an immigration consultant has given wrong advice, or misled the client, if you were able to go into the premises and search certain documents, how are we protecting the client in this scenario?

Ms. Lori MacDonald: One of the things I would start off with is that one of the advantages of this new statute is that it gives the board or the complaints committee the power to request those things, which doesn't exist right now. That information then can be used in a disciplinary process or a complaint process to establish the case against the consultant.

In essence, it gives teeth to a process—that doesn't exist at this time—to be able to follow through and to have a consequence or an outcome for the person putting the complaint in.

Mr. Marwan Tabbara: On the first panel I asked about licensing and training. Now the new body would be responsible for a set of rigorous training. However, there are follow-ups with that training for every immigration consultant to abide by, correct?

Let's take an immigration consultant. At the beginning, they take certain training, education. They are certified. They have been doing the work for five, six plus years. What's the ongoing training for that?

• (1635)

Ms. Natasha Kim: That would also be set with bylaws, by the board, which would encompass both public interest directors appointed by the minister as well as elected members. The board would set up the bylaws that would establish the conditions for someone's licence, which might include, for example, continuing education on a regular basis.

Mr. Marwan Tabbara: If you see that a consultant is not forthright and not abiding by these bylaws, what measures can you put in place to ensure that the consultant is penalized, maybe fined? Depending on the severity of...the consultant and his or her operations, what are some of the mechanisms in place to ensure they're abiding by these bylaws?

Ms. Natasha Kim: Under the bill, in what we expect to be the code of conduct, we expect there will be obligations to abide by bylaws or conditions of your licence or qualifications in order to be practising as a consultant. For example, if you're not abiding by those things, there could be consequences either through the registrar or the disciplinary committee, such as having your licence suspended or revoked or having penalties imposed.

Mr. Marwan Tabbara: You would go as far as even suspending their licence, if not revoking it, if there were egregious misrepresentation of their services, correct?

Ms. Natasha Kim: Yes. I would add that the disciplinary committee's decisions also would be published so that others could know about it.

Mr. Marwan Tabbara: We've heard testimony from individuals. What are some of the punishments—I shouldn't say punishments—some of the steps we've been taking to regulate consultants, and how is this a step forward?

Ms. Natasha Kim: I think I would underscore that fundamentally, this is quite a different governance regime compared to the status quo. Currently, the regulator is set up under the Canada Not-for-profit Corporations Act, as someone alluded to earlier, which is essentially a generic governance framework for private corporations or charities or associations, whereas this would set up under law, under statute, the framework for the governance of a profession. This gives additional teeth and clear mandate in terms of protecting the public interest, as well as clear obligations and accountability—for example, to report to the public and have that report before Parliament.

Mr. Marwan Tabbara: Excellent. Again, I'm going to ask the same question about the fear of filing a complaint. I think we need to inform individuals that if they are using a consultant, or even go as far as an immigration lawyer, they still have rights as a person who's using the service. We need to inform them that they are able to file complaints. It's safe. It won't jeopardize their applications.

What are some of the measures we've put in place to educate individuals on their rights and their ability to file a complaint without any repercussions?

Ms. Lori MacDonald: It is a tough issue to challenge people's fears and concerns in terms of coming forward. What we've developed is really a multipronged approach. It includes a lot around education, awareness and outreach, and education to our clients, to people who deal with our clients, to our international offices overseas. It's one of the reasons we're putting in these new resources overseas, so that—

The Vice-Chair (Hon. Michelle Rempel): Thank you, Ms. MacDonald.

Mr. Genuis.

Mr. Garnett Genuis: Thank you, Madam Chair.

Maybe I'll start with a comment about the testimony we heard from the minister. There is clearly a big problem here. We've got a section in an omnibus budget bill that says a subsequently developed code of conduct will define professional misconduct, but we're not getting—from the minister, at least—very basic questions answered about the content of that code of conduct.

The section of the budget bill that refers to this, says:

44 A licensee must meet the standards of professional conduct and competence that are established by the code of professional conduct. A licensee who fails to meet those standards commits professional misconduct or is incompetent.

We have no guidance from the legislation, whatsoever, about the nature of those standards, at least as far as I can tell.

As I asked the minister before, if somebody is advised to make a false refugee claim, would that qualify as professional misconduct? He responded that he didn't want to get into details that were that granular.

I feel that as members of Parliament, we don't have much meaningful direction in this legislation at all. For people looking at this and trying to make up their minds about what the impact is going to be, there is an accountability problem. It should be pretty easy for the minister to say that there is a problem with somebody being advised to make a false claim.

With that said, I'd like to hear your comments on whether the minister has given you advice about the content of the code of conduct. Have you given him advice about what the code of conduct should entail? How far advanced is the process of developing those standards?

• (1640)

Ms. Lori MacDonald: I'll start off and then turn to my colleague, Ms. Kim, to help out.

Could I just step back for one second, and talk a bit about the composition of the board? Ms. Kim made an important point earlier with respect to that.

In the new college, our majority members are set by the minister as majority public interest directors. That body will be responsible for setting up the code of conduct, through regulation. We could assume what will be in some of those pieces, with respect to the code of conduct. They're the general kinds of things you would want to see: how you comport yourself as a professional, the expectations of compartment of consultants, conflict of interest issues, the types of inappropriate behaviours and so on.

Those kinds of things would be established in a code of conduct, but we couldn't presume at this moment to know what those would look like, because it will be set up in regulation. That is part of the task of the board, and will also be part of the task of setting bylaws.

Mr. Garnett Genuis: Can I interject on that?

Subsection 43(1) of the act says:

The Minister must, by regulation, establish a code of professional conduct for licensees.

If I heard it correctly, you were talking about the board setting up the code of conduct. The legislation says that the minister sets up the code of conduct. Can you clarify which one it is?

Ms. Natasha Kim: Certainly subsection 43(1) does specify that it's the minister, and that any further changes proposed by the board would have to be approved by the minister.

The code of conduct is not set out in the statute, because that would require legislative amendment every time it needed to be updated for any reason, but it would be set out in subdelegated legislation, by regulation. The code would include such things as improper and incompetent conduct, and there would be disciplinary action flowing from that.

In the scenario the member provided, it's difficult to speculate, but I think disciplinary action could flow from providing counselling of a false claim. Counselling misrepresentation would also be an offence under IRPA.

Mr. Garnett Genuis: Perhaps I can comment. In the case example that I used before, I didn't use the phrase "a false claim" when I was questioning the minister. What I said was that if somebody who's come from a safe country, where they're not facing threats, is here in Canada on a temporary visa, and they are advised by an immigration consultant to make a refugee claim, would there be accountability for the immigration consultant if he or she provided that advice? Although I didn't use the words "false claim", the situation I've described is, by definition, a false claim, because there's someone from a safe country who's claiming refugee status, who is not in fact vulnerable. In that case, the minister said there wasn't clarity around whether or not that would apply.

I think it underlines just how open-ended this whole situation is. More clarity from the minister would have been helpful.

Can I just clarify, with you, a separate issue? On the issue of the definition of legal advice, am I correct in understanding that the current legal framework involves a situation where a person is giving advice for a fee? Under the new legislation someone would still potentially be covered, even if they are not providing advice for a fee, if they're providing it for free to somebody. Is that correct?

• (1645)

Ms. Natasha Kim: The definition under section 91 of IRPA would not change. Who is allowed to provide that advice would change, obviously, once the new college is fully established. I don't have it in front of me. I believe it says "for consideration", so it doesn't speak to fees, necessarily, but where there's some kind of exchange required.

Mr. Garnett Genuis: If a not-for-profit is helping somebody and not charging them at all, it doesn't have to worry about registering, under this legislation.

Ms. Natasha Kim: I would add there's an infinite number of fact scenarios. If a non-profit is receiving funding in some way to provide those services, then that would be for consideration.

The Vice-Chair (Hon. Michelle Rempel): Thank you, Mr. Genuis. You're unfortunately out of time.

Ms. Kwan.

Ms. Jenny Kwan: Thanks very much.

I'm going to give this a shot again. Who will monitor if the representative is approved by the college? Is it IRCC at the time an application is received? Is it only when there's a complaint brought forward, then a discovery is made that the representative for that applicant is actually not approved by the college?

Ms. Lori MacDonald: May I have that one more time? Sorry, Madam Chair, I'm not sure I'm following.

Ms. Jenny Kwan: With this new college, what I'm wondering is this: Who will actually monitor if the representative who submitted an application on behalf of someone is actually approved by the college to do this work? Is it IRCC at the time the application is being submitted, or is it when the applicant has a complaint and brings it forward to the college?

Ms. Natasha Kim: Madam Chair, our existing application kits and forms require people to declare when they are using a representative of some kind. There's a form called the "use of a representative" form, which they have to fill out. If they're providing the name of a consultant, they have to include their membership number. The assumption is that they would be authorized, and that the register that would be established under the new act would allow that to be searched, so that they could identify whether or not their representative is authorized.

Ms. Jenny Kwan: IRCC will check the number and make sure that they are on the list. If it's found that the representative is not approved by the college and is not on that list, what happens to that application? They could be a ghost consultant or somebody who does not have the necessary requirements, and so on.

Ms. Lori MacDonald: I'll take a stab at it. That's a bit ahead of us down the road with respect to program direction to the officers. We're still processing all of those pieces in terms of ensuring that the list of consultants is established and available and searchable for people to use, and then what that means in terms of tying it into the application process.

Harpreet, do you have anything?

Dr. Harpreet Kochhar (Assistant Deputy Minister, Operations, Department of Citizenship and Immigration): If I may add, Madam Chair, one key component with this change would be that when we are processing those clients, in addition to looking at the representative, whether they are on the list or not, we will have the ability to communicate with the clients themselves and get that information.

Ms. Jenny Kwan: I appreciate that, but the client may not know, and that is my point. I'm not quite sure how the college would deal with this, to be frank, because I think a lot of people might even send in made-up numbers. Who's to say unscrupulous consultants may not even make up numbers for their clients. They'd have no way of knowing on the applications.

Who's going to enforce this?

On the appointment of the board members, will the existing ICCRC members be qualified and be able to sit on this new college, or are they prevented from being part of this new college?

•(1650)

Ms. Lori MacDonald: On the first part of your question on processing, I'll ask Dr. Kochhar to respond. It's not the college that does the processing, it's IRCC, so it's always hard to give a definitive answer on scenarios. However, when the application is going through a process, we check those numbers, so Dr. Kochhar's response is where we would connect with the client to say we see that the number's not right, or there's some concern with the application. There are always challenges, of course, in being able to connect with clients if they've not given their contact information because they're using a consultant, but those are the kinds of things we work through in processing.

Dr. Harpreet Kochhar: Just clarifying that, one of the key components is, right now if you are being represented by the consultant, and if you have filled out the form, that's one way. We have a way to look at it from the list. As I said, calling the client... Finally, we also have a quality control process where we go through a definite number of these applications, and we go back to confirm if these are from the right clients or not.

One of the key components we are trying to put in is that right now we are only allowed to call the consultant if there is a representative on the list, but now we are making the change whereby we will be able to reach the client as well as the consultant so we can reconfirm that.

Ms. Jenny Kwan: On the board members?

Ms. Natasha Kim: I'm happy to answer that question.

Under the statute, the composition of the board would be set by the minister, who would have the authority to appoint the public interest directors, but also appoint up to a majority of public interest directors, so elected members would still be part of the board.

Ms. Jenny Kwan: Yes, I understand the process. Would existing ICCRC members, this current board, be able to become board members from the college, either by appointment from the minister or as an elected member from its licensee membership?

Ms. Natasha Kim: They would be able to become an elected member if elected by the membership to represent the members on the board.

Ms. Jenny Kwan: I see.

I don't think the act tells us how many people are on this board. A minimum of seven, it says. Does the ministry have any indication as to how big this board is?

Ms. Natasha Kim: Yes, if you look at the transitional provisions in the bill, they set out what the initial board composition will be as the transition phase goes on and the college is fully set up. It would be a nine-member board with five members who are public interest directors appointed by the minister, and four elected members. That's in the scenario where the ICCRC would vote to continue in the organization.

Ms. Jenny Kwan: What's to say that the existing members who can be elected to be on this board, whom people complained about at our study, would be able to be re-elected? That's what happened. Somehow they got to be there and they're doing this and now they can run again and be part of this new college.

The Vice-Chair (Hon. Michelle Rempel): Reply with a 10-second answer; be very brief.

Ms. Natasha Kim: Under the initial board composition, the public interest directors would form a majority and be a very strong voice on that board.

Ms. Lori MacDonald: There's a minister's observer on the board as well, a public servant who raises issues to the minister.

The Vice-Chair (Hon. Michelle Rempel): We are well over time.

[*Translation*]

Mr. Ayoub, you have the floor.

Mr. Ramez Ayoub (Thérèse-De Blainville, Lib.): Thank you, Madam Chair.

With regard to the study and the way we consider the establishment of this college or this new body to regulate the activities of immigration consultants, have you determined that the process will ensure that the files of all types of immigrants—and in some cases refugees—are processed faster than the current rate? If so, what will make the difference?

Ms. Lori MacDonald: Thank you for the question.

I'll make a clarification.

•(1655)

[*English*]

The processing in terms of expediting files in and of themselves occurs at the IRCC side of the house. In terms of the process with respect to complaints, making assessments around concerns or compensation fund or issues with respect to investigations and so on, all those factors will be taken into consideration by the board in terms of how they determine priorities and how they determine what issues are the most egregious or need to be dealt with in the short, medium and longer term.

I'm not sure if that answers your question.

[*Translation*]

Mr. Ramez Ayoub: I wanted to know whether the processing of immigration applications will be faster given that the process will be better controlled at the outset, the consultants will be trained, the consultants' work will be regulated, and there will no longer be any so-called ghost consultants. I imagine that the process will be faster because the applications will be very well structured, and things will proceed much more quickly for Immigration, Refugees and Citizenship Canada from an administrative perspective.

Is that correct?

Ms. Lori MacDonald: That's absolutely right. Thank you.

[*English*]

I would add that we are updating the forms to make it easier. We are putting in place a system that will have stronger, more disciplined, more regulated and educated consultants. We're doing more outreach and education. All of those factors, as an example, come together and will make the process quicker.

[Translation]

Mr. Ramez Ayoub: All types of colleges provide annual or biennial training. Minimum requirements must be met to maintain the quality of the services provided. What's the plan for the training? Will it be biennial? Will there be a minimum requirement? If people fail to meet this minimum requirement, will they lose their right to work as consultants? If so, how can they restore this right? Have these issues been addressed?

Ms. Natasha Kim: In terms of the consultants' qualifications, the standards will be established by the board through regulation. There will be minimum standards. In the case of consultant qualifications, all consultants must meet this objective.

Mr. Ramez Ayoub: I imagine that the public information, in the case of these consultants, will end up on a site available to the public. If not, it should be. We see this for many other colleges. When regulating a profession, it's important to ensure that the consultants' licence is authentic and still valid. The goal is to address the questions and concerns of some Canadians.

Can Canadians check the list of people who are licensed and who can work as consultants? This could reassure them. A licence number is one thing, but the ability to check an official register, whether the register is from the government or from someone else, may be more reassuring for Canadians.

Is this part of the plan?

Ms. Natasha Kim: Yes, of course. Subclause 31(1) of the bill states that the public register must be in a searchable format. The register will be available to the public, and the public can search for a consultant.

Mr. Ramez Ayoub: That's more reassuring.

We're also talking about clients who aren't Canadian citizens but who want to obtain Canadian citizenship. Some families want to be reunited. These files may be assigned to consultants whom they know or don't know, or whom they'll get to know. There's also the service abroad provided by embassies in particular. IRCC is represented in embassies.

Can consultants obtain qualifications abroad, or will they simply be Canadian consultants on Canadian soil?

• (1700)

Ms. Natasha Kim: When an application is submitted to IRCC, only authorized consultants can provide advice to clients. As a result of our investments, we can provide more public education outside Canada.

Mr. Ramez Ayoub: Can the consultants be outside Canada, or are the consultants only in Canada?

Otherwise, the embassies in each country are responsible for managing the influx of immigration applications on an administrative level.

Ms. Natasha Kim: Yes.

Dr. Harpreet Kochhar: I'll try to respond, Mr. Ayoub.

[English]

For embassies abroad, we have—

The Vice-Chair (Ms. Jenny Kwan): Thank you.

Sorry, the seven minutes is up.

Mr. Ramez Ayoub: Can't we even have 10 seconds like the others, just to answer the last question?

The Vice-Chair (Ms. Jenny Kwan): I'm just going to follow the rules as they are.

Ms. Rempel.

Hon. Michelle Rempel: Thank you.

Has any analysis been done on the cost or potential liability exposure to the government, related to the new governance model?

Ms. Natasha Kim: The model that was adopted was a statutory self-regulation, so, as set out in the bill, this would not be an agent of Her Majesty. It would be independent and at arm's length from the government.

Hon. Michelle Rempel: You don't anticipate any liability with regard to the Minister of Immigration having a role in setting the code of conduct or... Has there been any analysis done to see whether or not there would be liability established in potential jurisprudence down the road?

Ms. Natasha Kim: Certainly we consulted heavily with Justice as this was being developed. We don't foresee any great risks around liability, but we do get a lot of litigation in general.

Hon. Michelle Rempel: Has any cost analysis been done related to the level of liability that was analyzed by Justice?

Ms. Natasha Kim: I should say that we don't anticipate any liability risks.

Hon. Michelle Rempel: Has any analysis been done with regard to any additional costs related to administering the new model?

Ms. Natasha Kim: Indeed. Budget 2019 did announce investments of \$51.9 million, I believe, over five years. That took into account what our estimates were about administering the new model, including increased investigations and a new AMPS regime.

Hon. Michelle Rempel: Okay.

Ms. Natasha Kim: The college itself would be self-funded by fees.

Hon. Michelle Rempel: Was any analysis done with regard to—as was outlined in the committee recommendations...providing more streamlined...or ease of accessibility within existing IRCC service lines to perhaps backfill some of the services that immigration consultants already provide and that many clients complain about, like the complexity of forms or translation services?

Dr. Harpreet Kochhar: I'll mention that our focus is to provide that kind of transparency in terms of what we really want our clients to focus on. We have considered the client-centric approach, so that's why application forms and website changes—

Hon. Michelle Rempel: Thank you.

I have a limited amount of time. Specifically, from an opportunity cost perspective, the government is investing—spending—\$51 million worth of tax dollars and assuming oversight and, ostensibly, liability related to an arm's-length profession that exists to interpret difficulties in an existing government system.

I'm wondering if there was any opportunity cost analysis done to apply that \$51 million to ease service delivery specifically related to this particular expenditure?

Ms. Lori MacDonald: Essentially, we looked at where we wanted to focus our attention, which was on things like addressing gap areas and addressing how we could make the process easier for the clients. We actually did costing around that, but not in relation to what gap analysis there would be in terms of spending.

Hon. Michelle Rempel: Thank you.

With regard to legal advice, I'm assuming that reading a form in a mother tongue would not constitute legal advice or telling somebody to put their name in a field on a form. Would the code of conduct being written by the minister consider somebody telling somebody to put any type of content in a form to be legal advice?

• (1705)

Ms. Natasha Kim: I don't think that we can necessarily speculate on specific fact scenarios. I don't anticipate that a code of conduct would specify about putting things into forms, but it—

Hon. Michelle Rempel: I ask because that's actually where the rubber hits the road on a lot of this. It's about people who are giving advice as to what content would go into a form.

Did the government direct you to provide any analysis with regard to what exactly would constitute legal advice as it relates to the profession directing people to put content in forms?

Ms. Natasha Kim: I would just clarify that what's being addressed within the immigration consultant sphere under section 91, for example, is not necessarily legal advice. That's not the term that's used. It's immigration “advice” and “representation”.

Hon. Michelle Rempel: Has there been any analysis done to rectify some of the recommendations made by the bar association with regard to that exact point that telling somebody what to put in the—

The Vice-Chair (Ms. Jenny Kwan): Thank you, Ms. Rempel.

Mr. Whalen.

Mr. Nick Whalen: Thank you very much, Madam Chair.

Maybe I'll continue along those lines just a bit. If we're going to look at the cost analysis, obviously there's an option of having law societies do this, and obviously the cost to society is very large if lawyers are the only ones allowed to provide this service, but it doesn't cost the government any extra money.

Presumably there's a comparison between this current proposal, I guess, which Ms. Rempel has pointed out is \$51 million...there may be some ongoing costs year over year. How would that compare to the government itself providing a government-regulated service? Was any cost analysis done on that option? How does that compare to the option that was chosen?

Ms. Natasha Kim: We certainly looked at that option, along with a range of options, and cost did factor into it. In that scenario, unlike the current one that is proposed, there would be enhanced liability risk for the government, for example, if we're directly regulating the immigration consultants. There is that issue.

There was also a bit of a policy issue around perceived or real conflicts of interest. Currently, the minister is responsible for the organization, which is at arm's length. That's what's proposed in the legislation, but under a direct government regulation you would have the government be both the decider of immigration applications at the same time as regulating the industry. That was also a concern.

Mr. Nick Whalen: The actual establishment costs weren't any different or...? I would have expected that offering it within government would have cost government more, because you don't have the professional services fees to buffer it.

Ms. Natasha Kim: Exactly. There would still be fees, but by virtue of being in government it would likely be more expensive to run, in terms of start-up costs, because it's not an area where we have existing functions or expertise.... The government itself does not regulate a lot of that—

Mr. Nick Whalen: Do you have a dollar value estimate you can share?

Ms. Natasha Kim: Not in front of me, no.

Mr. Nick Whalen: Okay.

In terms of codes of conduct, the existing sort of self-regulatory education body has codes of conduct and standards of care. It has business rules. It has ethics guidelines. Is there any reason to suggest that they wouldn't be a good starting point to roll into this new legislation? Have you identified any gaps that would need to be addressed?

Ms. Natasha Kim: That would be something we'd want to look at closely as we develop it and provide advice on what it will look like. We'll look at best practices. We'll look at what experts might view as the best practices and have that inform what the code of conduct would look like.

Mr. Nick Whalen: In terms of foreign agents and local agents, I know that my colleague Mr. Ayoub was trying to ask a question on that. In the case of patent practice, if you want to engage foreign agents there are reciprocal rules around having an associate agent in another country deal with a locally registered agent. My guess is that immigration practice is not as well established.

What types of things can be done to ensure that you know your client in an international context?

Dr. Harpreet Kochhar: There two things are that we have instituted and have worked well. One is the proactive approach, which is basically educating the clients overseas to apply early, apply with completed forms, use the e-applications and use the forms that are available on the Net. Also, we're sending out quick messages, through social media and others, that it is easy to fill out the forms, so...don't also figure out if these are the true agents or true immigration consultants and they are not somebody who is not trained properly...

The second thing is that for actually watching those parts, we have established, as the minister pointed out earlier, five more positions overseas where our source countries are the big source countries: India, China, Nigeria and Iran, which is processed through Ankara. Those are the ones that will actually be going out very much in advance and doing a lot of engagement, with a lot of engagement from students to prospective clients who are coming in as TRs or permanent residents in giving them more information.

The second part, which we always refer to as overarching, is that we've actually very much clarified our website so that you can look at it in your own way for how to apply and how much information you need and also monitor your own application through your own account.

Those are the factors that are helping us.

• (1710)

Mr. Nick Whalen: I have one last question.

We're sort of dancing a little bit around the notion of whether or not you're engaged in the professional practice of immigration and citizenship consulting versus the practice of law versus just providing information. I'm wondering what type of guidance the department is going to be providing to MPs' offices and to non-governmental organizations engaged in settlement services—

The Vice-Chair (Hon. Michelle Rempel): Give a very brief answer.

Mr. Nick Whalen: —to inform them how not to violate this new law.

Ms. Lori MacDonald: We've already started to establish information sessions, kits and written information in terms of providing guidance on those issues.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Ayoub, you will be pleased to note that I gave you an extra 20 seconds that time around.

We are on to Mr. Tilson.

Mr. David Tilson: Thank you.

Just to continue on with some of the issues that have already been raised, a number of years ago, there was a big dust-up between the lawyers and the paralegals. The lawyers said, "Get rid of the paralegals; they're not any good." Of course the response came back that the problem was that, for certain types of matters, you didn't need a lawyer; a paralegal could act in a certain way and charge the appropriate fees. That issue seems to have been resolved.

We had a study in 2017 in which the lawyers again came and said, "Get rid of the consultants; they're not any good." We had the same

argument. We had consultants who would do certain complicated things, and other consultants who were just simply filling out forms.

All of this gets down to the question as to how you're going to deal with that. There's always a grey area where, for the people who are filling out forms, maybe that's all they should be doing, but they're doing something else. I'm talking about consultants. I'm sure we're going to have some lawyers come again and say the same thing, maybe as early as today. This area was canvassed by my colleagues on the other side, but I'm interested as to how you're going to resolve that issue other than by saying that you are working on it.

Ms. Natasha Kim: In terms of paralegals, in Ontario at least, that issue was resolved in part by bringing them in as members of the law society and governing them through that mechanism. Consultants are another option, but it would have to have been addressed by every province in order for that to be effective as a national solution.

Mr. David Tilson: Yes.

Ms. Natasha Kim: What's being proposed here is a regulatory body that would govern immigration and citizenship consultants.

In terms of whether they should or shouldn't be filling out forms, I guess I would say that anyone who was acting as an immigration consultant would have to meet the qualifications and the education standards that are set out.

Mr. David Tilson: So you're going to say to consultants, "There are certain things you cannot do." Are you going to go that far and say that there are certain things they cannot do, that this requires the expertise of someone who has had legal training?

Ms. Natasha Kim: Under the status quo, under the existing framework, for example, immigration consultants can't necessarily appear before a court. They can appear before the IRB, an immigration tribunal, but what is new within the proposed legislation would be they would be required to have extra training to be qualified to appear before a tribunal.

• (1715)

Mr. David Tilson: What is that? Are you going to set that out?

Ms. Natasha Kim: That would be set by bylaws by the college.

Mr. David Tilson: So it hasn't happened yet?

Ms. Natasha Kim: No, although I understand the ICCRC has been working with the IRB around what it could look like.

Mr. David Tilson: That's an issue. Who should appear before the IRB? Just someone off the street? The answer is no; it's someone who's qualified. I trust that you're going to get to that point.

The other question I have is with respect to the board of directors. We have some members of the board who are elected and some members of the board who are appointed by the minister. That's still going to continue. That didn't work out very well.

Ms. Natasha Kim: Under the current framework, under the Canada Not-for-profit Corporations Act, no members of the board of the ICCRC are appointed by the minister. There are public interest directors under their own constitution, but most are elected by the board itself or by the membership. This would be new, where the minister would be appointing those public interest directors to act in the public interest, and they would not be practising consultants.

Mr. David Tilson: So the minister would in fact be making the appointment, all appointments.

Ms. Natasha Kim: It would be just the public interest directors; there would be elected members as well who would be elected from amongst the membership.

Mr. David Tilson: So it's the same thing. From the testimony we heard, I think it was 2017, that didn't work out.

Ms. Lori MacDonald: No, there are no ministerially appointed positions on the board at this time. They are elected members. The new legislation will allow for the board to be made up of ministerial appointments that could be from any walk of life. There are appointments specific to manage the board; elected members from the consultants; and a public servant ministerial "observer", as it's called, to be not a voice on the board but an observer on the board, to be kind of like a watch for the minister to flag any concerning issues and so on.

It will be a completely different entity from what exists now.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Mr. Sarai.

Mr. Randeep Sarai: In 2017, I think there was an issue about negative experiences by vulnerable foreign workers. In some instances, even though they didn't trust them entirely, they still ended up working with them, because they didn't know where anyone else could help. Do you think the new tools, given such a stronger complaint process and new public awareness activities, will help with the issues that were brought up in 2017?

Ms. Natasha Kim: Certainly, in relation to consultants and increased robustness around the regulation of the consultant industry, there would be, as the minister laid out, a number of additional recourses and consequences for either unscrupulous or unauthorized practice. As it relates to temporary foreign workers in particular, I would note that there are also other mechanisms in place. For example, there have been a number of investments in employer compliance regimes so that, for example, Service Canada or Immigration, Refugees and Citizenship Canada can actually inspect employer workplaces that have migrant workers and ensure that those employers are living up to their obligations. We use a range of mechanisms to try to ensure the protection of vulnerable people.

Mr. Randeep Sarai: Have you spoken to the current regime to see whether they expect that this would solve a lot of their issues? The last time we studied them, the complaint process was very long. Very few consultants ultimately had their licence either revoked or suspended. Do they expect the process to be different? Are they optimistic or are they hesitant? What's the feedback you've received from them?

Ms. Natasha Kim: I believe the committee will be hearing from them later today, but we have certainly been in regular contact with

them. We have talked to them about the proposed changes. The reaction we have received has been fairly positive.

Mr. Randeep Sarai: Will they fund this whole regime themselves? Will there be federal funding offsetting any costs in this, or are they expected to fund this all entirely on their own?

• (1720)

Ms. Natasha Kim: The college would be self-funded by fees paid by consultants.

Mr. Randeep Sarai: Okay.

Where would the compensation fund come from? Would that come from the federal government, or would it be an ongoing fee that they would pay in and put into a pool?

Ms. Natasha Kim: We envision that the compensation fund, which would be managed by the college, would be funded through the college's resources, perhaps through a levy on members. As well, if there are monetary penalties as a result of disciplinary decisions, for example, those penalties could go into the fund to provide recourse to victims.

Mr. Randeep Sarai: How do you envision the separation here? There was a recommendation that more training would be done for those who go to Federal Court, say, versus those who simply fill out forms. Would that be mandated in the beginning or would that come out of the regime on the different educational standards that would be expected from consultants?

Ms. Natasha Kim: It would come out of the bylaws as they're established, but the obligation for additional training, if you're appearing before a tribunal, is something that's set out in the statute itself.

Mr. Randeep Sarai: What would happen during the transition period to complaints that are already registered against those that are being investigated? How would they be taken into account?

Ms. Natasha Kim: Madame Chair, there are very detailed transitional provisions set out in the bill so as to try to make sure there is the least disruption possible for both clients and consultants themselves, and so there aren't disciplinary or enforcement issues that fall through the cracks. A lot of that would just transition over in phases, so that there would continue to be oversight over the profession.

Mr. Randeep Sarai: Are there complaint mechanisms that will be there, not for the party directly involved but for other consumers? Here's an example: somebody sees unscrupulous activity that they don't feel is fair, or they feel a client is being victimized but the client doesn't have the courage or wherewithal to make the complaint. A third party may be able to make that complaint. Will that be investigated or will that be barred?

Ms. Natasha Kim: The legislation doesn't go into that level of detail, but it does require the complaints committee to consider every complaint brought to it. Of course, there are challenges sometimes with the actual investigation if someone's not willing to come forward, but that would be worked out on a case-by-case basis.

Mr. Randeep Sarai: Are there any criminal tools? For example, somebody's very egregious, has had multiple fines and has been told to cease and desist. Still barring that, are there punitive measures that might include jail time? Would that be envisioned—something like the measures I've seen in the physicians and surgeons and the law societies?

Ms. Natasha Kim: Certainly, and that's part of what the budget investments are for, to provide more resources to CBSA to pursue criminal investigations, which can result in both imprisonment and fines. As the minister noted, those fines would be doubling.

The Vice-Chair (Hon. Michelle Rempel): Thank you.

Ms. Kwan.

Ms. Jenny Kwan: Thank you.

What mechanisms are in place to enforce the educational and competency requirements set out by the college for consultants who work overseas, aside from having these outreach workers telling people? That is not an enforcement tool. What enforcement tool would there be?

Dr. Harpreet Kochhar: Madame Chair, we do have just an outreach tool. We do not have an enforcement tool. We continue to work with the government on a bilateral basis, just to establish....

Ms. Jenny Kwan: Thank you.

I'll point out the problems with that right off the top, because with the outreach tool, you've got five staff for five countries. Let's just take China or India, for example, assuming you've got one person for each of those countries. Those are huge countries. I don't know how much one person can really get the word out. Really, at the end of the day, don't we need a mechanism for those ghost consultants elsewhere, who are taking advantage of these individuals who do not know our Canadian laws or the process and who are being taken advantage of and sucked in? Some of them have paid exorbitant amounts of money for these individuals to represent them, and they might even have gotten themselves here only to find out that, at the end of the process, the job they've been promised is actually not there. The pathway that they've been promised for permanent residency is also not there. At that point, what recourse is there? They can go and complain, but it doesn't actually help them. They might be able to get some sort of compensation, but at the end of the day they are screwed.

Part of the big problem we were dealing with at the committee centred on this issue too. What is there to prevent the government, for example, saying to overseas consultants that they have to meet these requirements and be registered to have met these requirements? Has that been considered by the government, and if not, why not?

• (1725)

Ms. Lori MacDonald: I have a couple of responses to that, Madame Chair.

From an enforcement perspective, obviously, we don't have jurisdiction overseas, so that is, and continues to be, one of the challenges. In terms of the consultants themselves—

Ms. Jenny Kwan: I'm sorry, I'm just going to interrupt here on that question. If people want to make an application meeting Canadian requirements, they have to have these competency and educational requirements met.

What about instituting a system to say that you actually have to demonstrate that you've met these educational and competency requirements, in order for you to represent somebody for an application to be considered here in Canada? Is that something that could be delegated to the college to say that this would be part of their task in order to prevent the kind of problems that we have?

Ms. Lori MacDonald: I'll take the start of this, Madam Chair, and then ask Ms. Kim to jump in.

One of the requirements of the board will be to establish the education requirements for the consultants. It will be a requirement to post the list of consultants so that people, regardless of where they are, overseas or in Canada, can search that list to say that this person is a qualified consultant. They know that they're using a qualified consultant.

Ms. Jenny Kwan: Okay, so if you're going to use that as the basis, could you then say that applications can be accepted from only this list of people?

Ms. Lori MacDonald: Yes.

Ms. Jenny Kwan: Anybody who uses somebody else who is not on this list would not be accepted as an application.

Is that process being put in place?

Ms. Natasha Kim: That process is already in place. The challenge that we have is where people are not declaring the consultants they're using who are unauthorized, who are operating without being declared.

Ms. Jenny Kwan: If people don't declare, then under this new regime, what are you going to do with that situation? Are you then telling them that their application is not being accepted?

Ms. Lori MacDonald: Madam Chair, that's where it comes into a number of different processes that we're putting in place.

I don't want the committee to think that putting a few resources in place overseas is the only strategy. That's one of many strategies. We have 157 VACs, as an example, around the world. Those groups will be part of the education process as well.

Ms. Jenny Kwan: I'm running out of time.

Can you submit to this committee all of the strategies you have in place to address this issue, so we can look at it in detail? I'm tight for time.

Ms. Lori MacDonald: I will undertake to do that.

The Vice-Chair (Hon. Michelle Rempel): Thank you, Ms. Kwan.

We are going to briefly suspend to get ready for our next panel.

Thank you.

• (1725)

(Pause)

• (1730)

The Vice-Chair (Hon. Michelle Rempel): We will resume.

I want to let colleagues know that I believe at some point we will be interrupted by votes, so we'll try to get through this. We have three presentations, and we will try to ensure that we at least have one round per party before that occurs.

With that, I believe we will go to our guest via teleconference first.

Ms. Panlaqui, you have seven minutes.

Ms. Maria Esel Panlaqui (Manager, Community Development and Special Projects, The Neighbourhood Organization): First, I would like to thank the Standing Committee on Citizenship and Immigration for giving me the opportunity to speak today. My name is Maria Esel Panlaqui, manager of community development and special projects of TNO, or The Neighbourhood Organization.

TNO is a community-based multi-service agency that has been providing a wide range of community services since 1985, specifically to newcomers to Canada. We are a non-profit registered charity funded through generous donations, government grants, foundation support and corporate partnerships. Our programs, services and activities support low-income, marginalized and newcomer communities across Toronto in more than 50 languages at no cost.

One of the unique programs that we offer at TNO is specifically around providing services and supporting the caregivers under the former live-in caregiver program and those under the new pathways. In addition to in-house settlement services offered at the TNO main office, we also offer them English classes in partnership with the Labour Education Centre, and workshops and information sessions every Saturday at TNO's 1 Leaside Park Drive office.

We also provide weekend itinerant services at the Juana Tejada Lounge, which is at Our Lady of Assumption Church, which is the Filipino chaplaincy office and also provides evening phone services. TNO has demonstrated its commitment in breaking down barriers to improve service provision and to fill the service gaps by adapting innovative approaches to respond to the unique and complex needs of these workers.

Because of our extended and flexible hours of service and greater scope of support services, TNO has become one of the primary points of contact of caregivers and other migrant workers arriving from the Philippines. For the past many years, we have been seeing workers who are victims of illegal recruitment and fraud and exploitation by either recruiters or sometimes immigration consultants and their employers.

As we all know, newcomers with precarious immigration status are more vulnerable to being taken advantage of. These workers are uniquely vulnerable to exploitation and abuse largely stemming from the temporary nature of their immigration status as temporary foreign workers. These workers have claimed to have paid their agents tens of thousands of dollars and were released upon arrival or discovered upon arrival in Canada the job was never real.

Most of them are hesitant to file a complaint for unfair treatment to the regulatory body or report fraud to authorities for fear of deportation. Many are suffering in silence. All these things are nothing new to all of us. Abuse and exploitation of these workers has been allowed to become normalized within the immigration system.

The current regulatory body, ICCRC, which is the national regulatory body to oversee regulated Canadian immigration professionals, is not effective in addressing and solving these concerns. We've been continuously seeing recruiters and immigration consultants treat clients and workers and get away with exploiting them.

The new proposed regulatory body is supposed to make it tougher for consultants to rip off clients but we would like to share some of the concerns we have in our recommendations.

First, we have concerns about whether there are provisions in the new legislation to protect victims of fraud and exploitation who come forward to seek help from potentially being deported. How do we ensure that the complaint process and hearing won't be turned around and used against the victims?

IRCC should give special consideration to those workers affected and not penalize them through outright refusal of their immigration application. IRCC should also not blame and punish the victims but ensure that the immigration consultants and recruiters who abused these workers are prosecuted.

A holistic approach in dealing with the victims is also recommended. These are workers who are traumatized and forced to tell their stories over and over. The hearing process is traumatizing itself. Workers should have access to counselling and other support services needed to get them going.

IRCC should also provide regulations for migrant workers who have lost their status or are forced to work without status because of these fraudulent activities or recruitment.

Although most caregivers and their advocates welcome the decision of the federal government to allow open work permits for caregivers and the interim pathway, many still worry about those workers who will be left behind because they don't meet the language and education eligibility requirements to complete their PR application. The vulnerability of these workers is further exacerbated by these additional eligibility requirements.

• (1735)

Most of the workers facing challenges with their immigration status because of fraudulent recruiters or immigration consultants are being referred to various community legal clinics. The availability of legal clinic services in Ontario, as we all know, is currently uncertain after the cuts. That might put these workers in further vulnerable situations.

In the case of other migrant workers, the restricted work permits have also contributed to workers not formalizing their complaints because of fear of deportation. We strongly believe that this precarious immigration status is among the major causes of vulnerability of these workers. It allows recruiters, immigration consultants and employers to abuse them. The policies and labour migration laws in Canada, which are leaning to temporary migration, have contributed to the exploitative nature of the immigration process—from recruitment to actual renewal of work permits, other immigration-related applications and actual work practices.

We would like to recommend that “landed” status be provided to all foreign workers and they be allowed to enter Canada with their families. We would also like to recommend that IRCC extend eligibility for settlement services to people who are living in Canada on a temporary permit. This may include language classes and support for completing and renewing immigration applications. Migrant workers should be required, within a few months of their arrival, to meet with a non-profit organization, informal support groups and networks.

I would also like to mention that the impact of section 91 of the IRPA on settlement agencies is actually what prevents front-line workers from helping caregivers renew their immigration papers and complete basic paperwork. As a result, more caregivers—

• (1740)

The Vice-Chair (Hon. Michelle Rempel): I just need you to wrap your comments up quickly.

Ms. Maria Esel Panlaqui: —are pushed to go to immigration consultants they can't afford or trust.

One of the biggest problems we see now is that while the Immigration Consultants of Canada Regulatory Council can investigate its own members, it doesn't have the authority to go after non-members. Complaints about unlicensed consultants have to be forwarded to CBSA. Migrant workers are not comfortable with or are intimidated by the CBSA, as we all know—

The Vice-Chair (Hon. Michelle Rempel): I am going to have to move on. Hopefully, people will ask you more about some of the important things you are saying in the question time, because we are tight on time right now.

I will go on to Mr. Kurland for seven minutes.

Mr. Richard Kurland (Lawyer and Policy Analyst, As an Individual): Thank you.

Today, the context is derived from pro bono work with Canadian print and electronic investigative journalists from P.E.I., Saskatchewan, British Columbia and Ontario into immigration issues related to our topic.

Here is the key point. Canada has a little-known collection device for taxation overseas called assistance in collection. It appears in Canada's tax treaties with countries like the United States, Germany and Norway. We heard previously today from a government witness that if something occurs overseas, the hands are thrown up. There's nothing we can do. Perhaps, not.

Canada can engage in discussions with other like-minded countries to allow similar assistance in collection agreements for

Canada's immigration monetary penalties. Canada sets the penalty and collection can occur overseas in virtue of an assistance in collection agreement. To pursue the overseas wrongdoers in their home jurisdiction, overseas victims can seek justice and exercise their local remedies under their local laws, including seizures before judgment.

This gives the power to overseas victims to seek justice. Overseas enforcement of the Canadian penalty can be done with minimal or no cost to Canada. We're already doing it when it comes with the quiet matrix of enforcement control regarding the monitoring of overseas education agents.

When Canada, Australia or New Zealand flags an education agent, that operation gets shut down. Applications do not flow into the Canadian system. They do not flow into Australia, New Zealand and other like-minded countries. The mechanisms are there. The channels of communication are there. Assistance in collection agreements for Canada's immigration monetary penalties can be very effective.

I have two more points and I won't need the full seven minutes. Penalties should be attached to all persons connected to the particular immigration transaction. This includes any related affiliates or subsidiaries, when they engage in wrongful or reckless conduct. In the field now, related parties—not just the consultant or lawyer—are veiled, not responsible. That cannot be allowed to continue.

Lastly, not all immigration cases are created equal. What's missing here, a big miss, is that monetary penalties should contemplate significantly higher levels for economic class cases where an investment in excess of \$100,000 is required. Follow the money.

There are two streams presently attacking the integrity of the Canadian immigration system from overseas. They are, first, in terms of volume, the educational-related applications. In terms of money, these are cases involving investment, either under PNP or our start-up visa program. Second, hundreds of thousands of dollars are being paid directly and indirectly to parties connected to the immigration transaction with Canada, hundreds of thousands for a single case. How effective is your monetary penalty given that threshold? Think ahead. It's not the penalty for deterrence today. This is contemplated to be a penalty for deterrence for the next 20 years.

Those are my opening comments.

• (1745)

The Vice-Chair (Hon. Michelle Rempel): Thank you, Mr. Kurland.

Mr. Murray.

Mr. John Murray (President and Chief Executive Officer, Immigration Consultants of Canada Regulatory Council): Thank you, Madam Chair.

Good afternoon, everyone. My name is John Murray. I'm the president and chief executive officer of the Immigration Consultants of Canada Regulatory Council.

I'd like to begin today by thanking members of the committee for allowing me and my colleague, Michael Huynh, the council's director of professional conduct, to appear before you regarding the proposed legislation to establish the college of immigration and citizenship consultants under Bill C-97.

As you know, the council is the national self-regulatory body that serves and protects the public by overseeing licensed immigration and citizenship consultants and international student advisers.

Since joining the council last November, I've come to appreciate the valuable services immigration consultants provide to immigrants coming to Canada. Understanding the complexities and the nuances of our immigration system is not easy. Immigration consultants provide valuable assistance to new Canadians, helping them to navigate the immigration system during what is usually one of the most stressful and uncertain times in their lives. Immigration consultants also offer consumers freedom of choice, providing advice and services at a reasonable cost.

Since your 2017 study, this committee has been quite familiar with the role of immigration consultants. The report on consultants tabled by the committee in June 2017 made several recommendations to address the challenges facing both the profession and the council. Challenges cited in that report included delays in resolving complaints, inadequate consumer awareness measures and lax educational standards. You've discussed many of these today.

A key recommendation of that report was the creation of an independent public interest body empowered by federal statute to regulate and govern the immigration consulting profession. We at the council could not agree more on the need for federal legislative authority, and we were thrilled to see Bill C-97 take this important step towards modernizing the legislative framework applicable to immigration consultants.

If passed, this bill would transition the council into the new college of immigration and citizenship consultants, and give the college enhanced authority to investigate, obtain important evidence and compel witnesses to testify at disciplinary hearings—three things we currently lack. These new tools will also go a long way towards helping to protect prospective immigrants from fraudulent practitioners.

Given the past challenges within the industry, I can appreciate that there may be some, even some on this committee today, who may be asking why we should give the council the opportunity to transition into this new role. Let me assure you that today's ICCRC is not the organization you reviewed in 2017. We have taken your concerns seriously and worked hard to make significant changes.

Over the last two years the council has evolved. We've increased education standards. Last week, for example, we announced the upgrading of prerequisite education to a post-graduate diploma level. We've streamlined and improved the complaint and discipline process. We've strengthened governance on the board of directors and revamped our public communications and outreach strategies. A key component of these new initiatives has been the hiring of new

senior leadership, including me as CEO, and Michael as director of professional conduct. In addition, we have tripled staff resources for the professional conduct division and implemented new processes that have significantly improved our disciplinary process.

Despite these efforts, our main challenges remain our limited ability to properly investigate serious complaints and our lack of tools and authority to address ghost consultants. Ghost consultants, as you're aware, are unlicensed individuals who pose as immigration consultants to defraud potential immigrants to Canada. These unauthorized scammers pose the greatest threat to the immigration consulting profession because they operate completely in the black market, and often overseas.

The new college would have the tools and authority to take substantive action against ghost consultants. The act would also position the college to work closely with the RCMP and the Canada Border Services Agency to really crack down on these illegal operators.

We are confident that should Bill C-97 pass, we will be able to transition smoothly to the new college, continuing to build on the changes we've already made to create the effective, reliable regulator this committee would like to see. We've made tremendous progress in the last two years, and we look forward to leveraging this knowledge and experience into a new, improved self-regulatory body.

Thank you for your time. Michael and I welcome any questions.

• (1750)

The Vice-Chair (Hon. Michelle Rempel): Thank you.

We have enough time roughly for each party to get a seven-minute round. I think bells will start shortly thereafter. I'm looking for direction from the committee. Should we proceed with one seven-minute round, and then probably call it a day at that point? Okay. Great.

We will start with Mr. Sarai.

Mr. Randeep Sarai: Thank you all for coming.

Mr. Murray, you might have seen some of the information that was gathered in the last report. Since the last time we came, how many complaints under the current regime were heard in the last 12 months? How many decisions have been taken, and what was the range of decisions under the current regime?

Mr. John Murray: My colleague Michael will address that.

Mr. Michael Huynh (Director of Professional Conduct, Immigration Consultants of Canada Regulatory Council): The number of hearings has increased about 20-fold. Under the previous regulatory regime, we faced a lot of challenges moving from the complaints process to the disciplinary process, largely because of the volume and inadequate investigations such that there were only about a handful of contested hearings, and over the course of seven years from 2011 to 2017 there was only a single revocation of a member's licence.

Since John and I joined the ICCRC, we've already moved in the last 12 months to obtain six revocations of members' licences, and that's increasing exponentially.

Obviously, the goal of the regulatory body is not to just revoke all the members. The idea is to address those members who have been causing significant harm to the public and whose actions need to be addressed.

Mr. Randeep Sarai: Mr. Murray, as the president of ICCRC how do you and your membership feel about transitioning to this new college?

Mr. John Murray: We are very much looking forward to it. Although we have not yet completed our ongoing survey of members, we're confident that our members are looking forward to it as well. They see the new powers that we would inherit as the college as essential to protecting the public and protecting the reputation of the profession alike.

• (1755)

Mr. Randeep Sarai: Is there push-back from your membership, knowing it will no longer be a not-for-profit and instead will be a statutory self-regulatory regime?

Mr. John Murray: The only push-back I'm aware of to date is by a number of members who have outstanding disciplinary matters. They are obviously apprehensive that if we increase our powers, their ability to delay the inevitable results will be taken away.

Mr. Randeep Sarai: In 2017, the committee heard that many people were too afraid to come forward and make a complaint about immigration consultants. Do you believe the measures proposed here will encourage people to come forward?

Mr. John Murray: We think they will. Confidentiality provisions are built into the act that will govern our staff in the context of complaints.

Michael, do you have anything to add to that?

Mr. Michael Huynh: I have to admit it is certainly an ongoing issue, largely because of the cases we do move forward with tend to have witnesses that unfortunately drop out because of various forms of intimidation, and of course their precarious status.

We're trying to work that out through two mechanisms. As John mentioned, dealing with the privacy issues, ensuring that perhaps we can protect the privacy of those witnesses who are often complainants. A secondary issue has been addressed by the witness from the TNO, which is perhaps we should look into avenues to protect their status if, for example, their complaints and the evidence they are bringing forward suggests that either the recruiter or the RCIC has provided incorrect advice and exploited them.

Those would be mechanisms that certainly we enforce by this legislation and would be very helpful for ICCRC's disciplinary process, especially as it transitions to the college.

Mr. Randeep Sarai: Are you developing capacity after this is enforced so there are enough resources to investigate all complaints, including against ghost consultants and those who might be mimicking their role as consultants?

Mr. Michael Huynh: As John mentioned, we probably quadrupled the resources. When I first joined the professional conduct department as its director we had three and a half full-time staff. We're now up to 15.

With the transition to the college, we would certainly have to hire an additional number to address the unauthorized practitioners. We've already budgeted for that. Certainly the UPP, the unauthorized practitioner portfolio, is a serious one, and ICCRC has contemplated and put forward additional resources such as investigators and lawyers to address the unauthorized practitioner consultant issue.

Mr. Randeep Sarai: My next question is for Ms. Panlaqui.

In 2017, you came to this committee. You discussed the negative experiences of vulnerable foreign workers. You mentioned, and I quote:

In some instances, even though they don't trust them entirely, they still end up working with them because they don't know where else to get help. Most of our clients claim they have been manipulated and intimidated by the immigration consultants. Most of these consultants are aware that these workers will not lodge a complaint against them because they know if they do so this will have a negative impact on their immigration application.

Do you think these new tools, such as a stronger complaint process and new public awareness activities, will help with the issues you brought up in 2017?

Ms. Maria Esel Panlaqui: It's hard to say. There may be some improvements, but the root cause of these consultants or recruiters treating these workers the same way is that their immigration status is precarious. They're very vulnerable. The consultants and recruiters know they won't complain. In fact, the same ghost consultant we talked about when I testified in 2017 was recently able to recruit and conduct fraudulent activities with a group of migrant workers. I cannot speak about the case because the workers are seeking remedies, which is a good sign. They are beginning to speak. However, these workers don't have jobs. They don't have status. They have debts to pay.

I think we should come up with really effective measures to protect workers and support them through the hearing process. One of the reasons they don't complain is that there are no support mechanisms to do so. There are only limited agencies like us, and we are going beyond our mandate to support them. We don't have enough resources to do so. It's very hard. Hopefully, the resources will include support and protection for migrant workers through the hearing process.

• (1800)

The Vice-Chair (Hon. Michelle Rempel): Thank you. We're significantly over time.

Mr. Tilson and then Mr. Genuis.

Mr. David Tilson: Mr. Murray, the law societies in this country are statutory regimes, but they're independent of the government. This proposal being put forward in the budget is a statutory regime, but the government could interfere if it wishes. For example—you may have heard me asking questions of the minister—it can override your bylaws and rules if they don't like them. How do you feel about that?

Mr. John Murray: Well, we have always seen ourselves as co-operating with the government and working together towards common goals. Based on the initial meetings I've had with IRCC and the minister's office, we are not concerned that the minister would interfere very much with our activities. As long as we have our rules correct, we think the minister will support us.

Mr. David Tilson: Good luck.

Mr. Kurland, I think you raised the issue of veiled consultants. I assume you mean that a lawyer or consultant would have staff do things. They're not lawyers, they're not consultants, but they're doing things that, in many cases, mislead the public or the people who have come for assistance. We had evidence at the previous hearings that they're supposed to be under the jurisdiction or guidance of the lawyer or their consultant, but they're not, and there are problems. You raised that. Could you elaborate on how we should deal with those people?

Mr. Richard Kurland: The matter came to the attention of our Federal Court just last month. The direction and trend in policy and at the law society level, probably across the country, is that a member of the law society will take full responsibility for the conduct of employees of the office, be they consultants, paralegals or employees. Things get sticky when the applicant does not have a clear understanding of who is doing what, and who the lawyer's client is. That's going to be a matter of continuing legal education.

After this recent Federal Court decision, I suspect sanctions will be clearly evident. The alarm bell has been rung from coast to coast to coast regarding your question, sir.

Mr. David Tilson: I've finished.

Mr. Garnett Genuis: Thank you.

Mr. Murray, I just want to clarify something you said. You talked about the council transitioning to a college. Have you had discussions with the government to confirm that this is the intended process, that you would transition to a college?

Mr. John Murray: Yes, we have, and the act is quite clear on that as well.

Mr. Garnett Genuis: Okay, all right, that's very interesting, and I think that's new information for the committee that the intention is for the existing council to transition to a college. Now we have that on the record, so I thank you.

Mr. Murray, you also spoke about setting the rules. The legislation says that the minister would establish the code of professional conduct. Is your expectation, then, that the code of conduct would basically take your existing rules and have the minister promulgate them? Is that the direction, given that you've talked about preserving the rules you have?

Mr. John Murray: We're looking at this as an opportunity to review and revamp all of our rules, but that would be the process I would expect, that we would work together with IRCC and the minister's office to provide our input. Then the minister would craft that through the regulation process into a code of conduct, making sure to address any concerns of the government.

Mr. Garnett Genuis: Thank you.

Ms. Panlaqui, thank you for your testimony, and thank you for the important work you're involved in.

I know you presented as someone who's raising concerns about the activities, in some cases, of unscrupulous consultants. It seems to me, from listening to the testimony of the government, that it might come to view an organization like yours in certain situations as falling under the regulatory regime of this act, since you're supporting people who are interacting with the immigration system and they might come to you. There are some ambiguities in my mind around what would constitute legal advice. I had asked about the application of things like “for consideration”, and we didn't finish that line of questioning, but I think it was open-ended that if somebody was being paid to provide advice and they were being paid through grant funding from a third party, even if the person they were interacting with wasn't paying them, they could still certainly fall under the ambit of this legislation.

I'd appreciate your thoughts on how an organization like yours would feel about essentially being regulated as an immigration consultant in certain situations under this legislation.

• (1805)

Ms. Maria Esel Panlaqui: At the end of the day, we want to help our clients, the newcomers, the vulnerable and marginalized members of our society, right? These are people who are new to Canada, and most of the time they're very disconnected from their own communities. We just want to be proactive in terms of improving their access to information and other resources available in the community to support them. That's exactly the reason why they get trapped into accessing these immigration consultants who are fraudulent, because they don't know where to go for help. They don't know their rights. Most of our clients are tricked about the difference between an immigration lawyer, a paralegal and a consultant, for that matter.

Under section 92 of IRPA, we're not allowed to do work related to immigration. There has been discussion whether the government should consider giving us a mandate to at least do some basic paperwork, because our clients, who are mostly vulnerable and marginalized, won't be able to get a private lawyer to represent them.

The Vice-Chair (Hon. Michelle Rempel): Thank you very much.

Ms. Kwan.

Ms. Jenny Kwan: Thanks very much.

My first question is to Mr. Huynh. In 2016, by the end of December, there were 1,710 complaints with ICCRC. Can you tell us how many complaints there were in 2017 and 2018?

Mr. Michael Huynh: We're at approximately around 350 to 400 complaints per year. I do think it is important to note that not every complaint is the same. One of the major initiatives we've undertaken over the last couple of years is to look at the nature of the complaints and, more importantly, the sources of those complaints.

A major part of our strategy over the last year was to focus on the fact that 2% of our membership are responsible for 60% of those complaints, so it's really a matter of focusing on those bad actors.

Ms. Jenny Kwan: Sorry, I'm trying to get a sense of the figures for 2017 and 2018. What I'm hearing you say is 350 complaints per year.

Mr. Michael Huynh: That's right.

Ms. Jenny Kwan: Mr. Murray, on the question of transitioning into this new college, you said this decision has been communicated to you by the government. Can you tell us when that was communicated?

Mr. John Murray: I think I may have misspoken. If you review the transitional provisions in the act, it is quite clear that the act intends for the council to apply to be continued as it's launched—

Ms. Jenny Kwan: Sorry, my question was directed to your response to Mr. Tilson.

Mr. John Murray: Yes.

Ms. Jenny Kwan: You said this was under way. I'm just curious: when was that communicated to you by the government?

Mr. John Murray: It was communicated in two meetings, one at the end of April and one last week.

Ms. Jenny Kwan: Did this come from officials, or from the minister?

Mr. John Murray: It came from staff of the department.

Ms. Jenny Kwan: What were the positions of the staff?

Mr. John Murray: One was a director general and the others were associate director generals.

Ms. Jenny Kwan: Thank you very much.

I'd like to turn to the issue of protection for the applicants, or the victims, if you will. You mentioned the provisions that are required, which was a prominent issue that came before us when we studied this in 2016. For the people who are going to be caught out in this environment, even if they have a complaint process, it doesn't mean that they have actual recourse. As you have indicated, often they would have lost their status and many of them would be faced with imminent deportation.

Given this kind of scenario where bad actors have abused and exploited the applicants, what do you think the government needs to do to ensure that protection is provided to them through a complaint process? They've now established a compensation fund, which is good, I suppose. In terms of their status, however, in terms of the penalty they've already paid, which is that they won't even have a process to apply for permanent residence under this scenario, how can the government address this to ensure fairness in this process?

• (1810)

Ms. Maria Esel Panlaqui: If I remember right, you asked me when I testified in 2017 about cases where, if we ran after one

consultant, they would close down and then open another office under another name.

We were wondering why they would keep doing this, because there are clients who are availing themselves of their services who have no choice but to pay the high consultant's fee and recruitment fees. They know they are temporary here; they're so scared; they don't want to complain. But because of the difficult situation they are facing, there are times when they are being forced to speak out even if it's very hard for them. In the situation they were in, sometimes they would speak out, but then they would back out.

I think the reason we need to address the vulnerability piece is so that they won't be afraid to file the formal complaints and would still have their jobs afterwards. We could do this only if we give them status upon arrival and allow them to come here with their families.

Ms. Jenny Kwan: So your remedy is status on arrival.

Ms. Maria Esel Panlaqui: We want status on arrival for migrant workers and also to ensure there is federal oversight, not just a separate self-regulatory body to oversee it.

Ms. Jenny Kwan: What about where a complaint has been launched and the migrant worker has already lost their status? What about having government immigration provide an open work permit for the individual so that they can see the completion of the complaint and CBSA can suspend any attempts to deport the individual? That's actually what's happening right now.

Ms. Maria Esel Panlaqui: Yes. We welcome those practices. I think we have some cases now where there was an option for the workers to be granted a temporary resident permit, TRP. If you remember, this was pilot tested in B.C., and now it's expanded in several provinces. Some of the experiences of the advocates are that it's really very hard to prove these cases, and it's a very long and tedious process. Workers need support so they won't get demoralized and will continue to fight for the case.

Ms. Jenny Kwan: Thank you.

The Vice-Chair (Hon. Michelle Rempel): We'll have about 30 seconds before the bells go.

Mr. Whalen.

Mr. Nick Whalen: Very quickly, Mr. Murray, I've looked at some of the things that have been suggested. The minister was here earlier. He said phase one was really when the Conservatives made the not-for-profit corporation. I would view this as phase two, where we're now providing more authority and powers to the organization that's been around for a while with feedback.

Do you see these things like overseas reciprocal rights and reducing the number of minister-appointed members on the board as things that belong in this phase two, or are those things that can wait until phase three, after a further review in four or five years?

•(1815)

Mr. John Murray: I think the short answer is that it depends. Those are evolutionary items that could come at the end of the transition process, or they could come at a further phase three.

Mr. Nick Whalen: Since the bells haven't started, I will also ask another question. When we are looking at what exists on your website now in terms of codes of ethics and codes of conduct in business, and we look to see those things to be adopted by the minister, what sort of process is your organization engaged in to further flesh out the codes of conduct so that the minister would be in a better position to adopt those as soon as the legislation is passed?

Mr. John Murray: We're working directly with IRCC to review our code of conduct first and then our other regulations applicable to members' businesses. We haven't set out the final timetable for that yet, but our intention is to start right away.

Mr. Nick Whalen: Are there any particular items that you or Mr. Huynh would like to point out as needing upgrading or legislation that would require some additional work to be done to the existing code of conduct?

I hear the bells.

The Vice-Chair (Hon. Michelle Rempel): I'll confirm what we talked about on the front end of the meeting, that we are not coming back afterwards, and I will look to have discussions among colleagues sometime between now and tomorrow on how we are going to proceed on drafting instructions, just for the purposes and mental health of the analysts and clerk.

Thank you.

This meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: <http://www.ourcommons.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : <http://www.noscommunes.ca>