

March 27, 2023

Law Amendments Committee
Nova Scotia Legislature
Province House
1726 Hollis Street
Halifax, Nova Scotia B3J 2Y3

Dear Members of the Law Amendments Committee:

RE: Bill 256 – *Patient Access to Care Act*

1. I come here today as a lawyer with expertise in the area of professional regulation, a member of a self-regulated profession, and most importantly, as a patient interacting with Nova Scotia's healthcare system.

Lack of Consultation

2. First, I will begin by sharing my concern with the lack of public, professional, and regulatory consultation in the drafting of Bill 256. Second, I will speak to how this lack of consultation is clearly reflected throughout the provisions of this Bill in its purpose, language, and lack of defined terms. I am here to speak about the risks that these provisions will create for patient safety, professional integrity, and public confidence in regulated health professions if this Bill is passed as written.
3. To begin, I do not want the Committee to lose sight of the fact that the regulation of Nova Scotia's health professions emanates from the legislature, but much differently than how this Bill comes before us.
4. Prior to the introduction of Bill 256, the legislature granted the privilege of self-regulation to each of the regulated health professions impacted by Bill 256. In doing so, the

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legislature delegated decision-making authority to each of the professions themselves, through statute.

5. In granting self-regulation, the legislature recognized the immense institutional and professional expertise held by health professions regulatory bodies. The legislature afforded these regulators considerable latitude in their respective statutes when it comes to the power to decide on: policies and procedures that govern their professions, that maintain professional competence and integrity; and that best protect the public.
6. The legislature further mandated all health professions regulators, through their statutes, to act in the public interest. Protection of the public interest requires these regulators to hold individuals who seek to be registered and licenced in the health professions to high standards of conduct and performance, above and beyond what is generally required of individuals in society.
7. It is difficult to overstate the importance of proper, well thought out, risk-based regulation of our health professionals. The importance of professional regulators monitoring professional competence, conduct, and capacity stems from the dangerous consequences of failing to properly regulate professionals, and the extent to which the public places trust in them.
8. Government missed an invaluable opportunity when it failed to consult the public and regulatory stakeholders. Members of the public will ultimately be subject to the risks created by this legislation. Regulatory stakeholders are comprised of professionals who operate within carefully thought out and intentional regulatory frameworks; who make decisions in the public interest every single day.

Specific Issues Regarding Bill 256's Provisions

9. I will now speak to the specific issues created by Bill 256 from my perspective as a regulated health professional and as a member of the public.
10. The first concern I have with Bill 256 lies in section 2 – its purpose – which states in part, “ensuring all health professionals can work to the full extent of their training.” I am lawyer

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licensed to practice in Nova Scotia. I certainly have lots of "training", but I know that this does not mean that I am competent or have the skills to practice in every single area that I have received training in.

11. Similarly, I know that a physician who received training in surgery 20 years ago, but who has only ever practiced as a family physician, is not competent to perform a hip replacement. I certainly wouldn't want that physician performing a hip replacement on me. However, the purpose provision of this Bill appears to enable that.
12. Further, there is no mention in the purpose provision of any of the key guiding principles seen in other regulatory statutes in Nova Scotia: no mention of competence, safety, or of the public interest. In fact, safety is not mentioned at all, anywhere in the Bill. I am left wondering whether Government considered these guiding principles when drafting – stakeholder consultation would have ensured that these principles were appropriately considered.
13. The next section that is concerning to me is subsection 5(2), which fetters regulatory discretion in decision-making by requiring regulators to license any applicant who is registered, licensed, and in "good standing", in any jurisdiction that Government prescribes by regulation, without requiring final authorization by the regulatory body.
14. Subsection 5(2) does not define "good standing". In the regulatory world, "good standing" is a term of art with a different specialized meaning depending on the statute, the profession, and the jurisdiction. An applicant who is in "good standing" in Peru may not be considered to be in "good standing" in Nova Scotia, depending on their home jurisdiction's cultural competence requirements, language requirements, good character requirements, or professional liability insurance requirements.
15. If left as is, this provision enables Government, without final authorization of the health professions regulator, to require that regulator to license an applicant from another jurisdiction who may have a criminal background, who may lack sufficient language proficiency, competence, and professional liability insurance - to practice in Nova Scotia.

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16. This creates a dangerous environment for patients, who will ultimately be receiving care from registrants who are licensed under this provision. If I receive care from a physician licensed under subsection 5(2) who is considered to be in "good standing" in Peru, but does not possess professional liability insurance in Nova Scotia, I am not sufficiently protected if I am harmed by this physician's this care.
17. Ultimately, the regulation of professional practice through the creation and the operation of a licensing system involves the creation of valuable rights; and it is directed towards the protection of vulnerable interests. No one is better qualified to determine registration and licensing requirements for health professionals in Nova Scotia, than practising health professionals, who are themselves subject to the rules established by their governing body.
18. As member of the public, I do not want the decisions about who may be able to treat me when I am at my most vulnerable to be left to an institution that is not required to act in the public interest, and that is ultimately accountable to voters.
19. As a regulated professional, I understand that being licensed to practice in Nova Scotia is not a right, but an incredible privilege. I understand that working as a licensed professional in the Province requires me to be held to high standards, to maintain cultural competence, and to carry professional liability insurance. I understand that the best way to protect the public is to listen to the regulators, who are subject matter experts, who understand the risks, who interact with and screen registrants, and who have no agenda beyond public interest and public protection.
20. When it comes to registration and licensing requirements, public protection requires that regulators not merely be consulted, but have final authorization and discretion to determine who can practice safely in Nova Scotia.

Thank you,

Raylene Langor