NSCSW | NOVA SCOTIA COLLEGE OF SOCIAL WORKERS

Presentation to Law Amendments – Bill 256- PACA

March 27th, 2023

Who We Are

The Nova Scotia College of Social Workers (NSCSW) exists to serve and protect Nova Scotians by effectively regulating the profession of social work. We work in solidarity with Nova Scotians to advocate for policies that improve social conditions, challenge injustice and value diversity. Learn more about the College at nscsw.org/about.

Introduction

The NSCSW is concerned with process and direction that professional regulation is taking in Nova Scotia. My presentation todays is in invitation for critical reflection and evaluation of how we ought to change our health and social care systems, particularly with regard to the safety and care of the most vulnerable in our society. This requires an honest appraisal and a clear understanding of how these systems exist within their broader political context.

The Nova Scotia College of Social Workers (NSCSW) holds a unique position amongst the self-regulating health professions in Nova Scotia, as social workers interact with society's most vulnerable and marginalized populations. In addition to our understanding of policies and regulations, social workers also have a deep understanding of the regulatory environment in which we and our clients operate - allowing the profession to be well-positioned to provide meaningful input into provincial policy decisions that can improve outcomes for those we serve. With our commitment to promoting best practices, advocating for social policies that lead to social justice, and upholding ethical standards within the profession, the NSCSW plays an essential role in advancing a unique regulatory lens rooted in the values of the profession. While our organization is not directly impacted by Bill 256, as regulators and observers to this process, we felt it was important to add our voice to this important piece of public policy.

To be clear the NSCSW does not oppose what the Bill intends to achieve, nimbleness in regulation and a focus on access to health care are paramount to the public interest. Our organization has worked over the last 6 years to increase the number of Registered Social Worker by enabling tele-practice for social workers registered in other jurisdiction, fast tracked applications while maintaining public safety for additional screening checks and is currently updating our process for the approval for private practitioners to focus on right touch regulation. In addition, we have and continued to make massive efforts to address the calls for anti-racism policies and justice in the delivery of healthcare. As you have heard today from many regulators, access to health care is a shared priority, one that many of us have been working on for years.

However, our college is deeply concerned about the enactment of any legislation that enables interference in independent regulatory affairs, as independence from government is a key requirement for upholding and protecting the public interest, particularly the interests of society's

most vulnerable. What is the most troubling about this Bill is the intent of Government, through regulation to expand the scope of practice of an entire profession, with only a duty to consult the regulators required. Consultation of course is not binding. And if it is not meaningful, it is ineffective. The recent experience and the lack of any consultation on this Bill, provides no assurance to regulators that the expansion of a profession's scope will consider the concerns of regulators. There are other provisions of this current Bill that if enacted, would create the context for unregulated practice, which is a major concern for the safety of public.

The history of regulation of professions in Canada is important piece to this reflection. When professional self-regulation was coming online in Canada, there was a focus on quality assurance and the protection of human rights. However, researchers have demonstrated consecutive government worldviews have stressed the importance of free markets, deregulation, and privatization. It has become a dominant force in public policy making since the 1980s and its influence can be seen in many aspects of modern life. Through this worldview regulation is viewed as a barrier that stifles innovation and reduces competition and access. This trend can be felt in the modernization of health regulation, where governments are changing the definition of the public interest away from service quality and towards open competition and cost reduction. The NSCSW holds the view that this approach undermines important protections for workers, consumers, and the environment while leading to greater income inequality between rich and the poor. The trust that members of the public place in health professionals is of paramount importance, as it ensures trust and safety in the services provided. However, there is growing lack of trust in government-related services a reflection of our society's rising inequality, and it is essential that we make efforts to address this issue if we are to effectively improve health outcomes in Nova Scotia.

Nova Scotians have been crystal clear that health care reform cannot wait. Ensuring that everyone has access to quality healthcare is an admirable and commendable goal that our organization shares with this government and Nova Scotians. However, our college is concerned that in the goal for access we are politicizing both problems and solutions that can and ought to be solved through collaboration. Collaboration that is rooted in maintaining trust, quality services and increasing access.

The process chosen by the government to enact this Bill sets a troubling tone, one that in our opinion was not necessary to resolving the collective challenges that we face. It has subjected independent regulatory bodies to increased politicization and if not amended it threatens the independence of regulatory bodies and subjects them to future partisan agendas, that may not align with public interest.

I trust that the members of law amended committee will appropriately amend the Bill, so that it can achieve its goals, while at the same time maintaining the integrity and the independence of regulatory bodies. It is our believe that not doing so, will continue a trend that drives inequality and inequity leading to declining outcomes in health and social care. At this point in our history, it is fundamental that we all work to strengthen democratic process, not weaken it. The current political climate continues to see a growing trend towards retrenchment of democratic process, where the decision-making powers that impact, the public interest are left to a few people, and

too often it is left to people who have political agendas that are not in the public interest; particularly the interests of the vulnerable and marginalized. Historically when power is entrenched into the hands of a few; marginalized and vulnerable populations bear the brunt of the negative consequences.

Based interpretation of Bill 256, the NSCSW has identified the following main concerns:

1. **Reference to training in the purpose section of the legislation.**

   It is of utmost importance that the purpose of an Act is expressed with clarity and precision as it is a key tool when considering the interpretation of all its sections and regulations. Unfortunately, the purpose of the Bill remains hazy which poses a problem for the College. While it aims to better serve the public in numerous ways, the language used to convey its goals lacks clarity. For instance, it states that the purpose is to ensure "all health professionals can work to the full extent of their training...." However, who exactly are these "health professionals" remains undefined leading to ambiguity throughout the legislation. As such, it is imperative that the purpose of the Bill is expressed in a way that is free from any obscurity and understood easily and without any confusion.

   While using the word "training" may seem straightforward, it's actually a vague term that doesn't guarantee someone's competence in their field. Just because a health professional received training doesn't automatically mean they're competent in every aspect of their practice. Competence is about the ability to combine knowledge, skills, and judgement to practice in a safe and ethical manner. This is what allows health professionals to work to their full individual scope of practice, which is recognized by professional self-regulation. It's important that legislation not solely focus on training as a measure of competence and instead recognize the importance of a complete skill set in healthcare.

   The statutes establishing the health profession regulators in this Province use the language of "competencies", "competent", "individual scope of practice" and "scope of practice of the profession" when addressing the extent to which registrants may engage in the provision of a particular service. In Schedule "B" to Bill 256, the terms "individual scope of practice" and "scope of practice of the profession" are defined for purposes of the *Act Respecting Medical Certificates for Employee Absences Due to Sickness or Injury.* The same definitions should be included in the *Patient Access to Care Act.*

   Statutes such as the *Nursing Act* include the concept of "expanded scope of practice" and through clause 45(1)(f) of that Act, there is a clear statement indicating registrants must practice only within their individual scope of practice and any expanded scope of practice authorized by the legislation.

To the extent Bill 256 introduces the concept of an expanded scope of practice, the language from the *Nursing Act* offers a useful template.

This Bill should use language that is understood and adopted by the regulated health professions in this Province and should not introduce undefined terms like "training".

To be clear, the Network is supportive of registrants practising to their full individual scope of practice. The language of the Bill should reflect that.

RECOMMENDATION:

Revise wording of section 2 of Bill 256 as follows:

Existing wording	Proposed wording
The purpose of this Act is to improve patient access to care by further opening the Province to out-of-province health professionals, ensuring all health professionals can work to the full extent of their training and continuing the reduction of administrative burdens in health care, including incenting companies to reduce their administrative demands on health professionals.	The purpose of this Act is to improve patient access to care and promote public safety by further opening the Province to out-of-province health professionals, ensuring all health professionals can work to the full extent of their individual scope of practice and continuing the reduction of administrative burdens in health care, including incenting companies to reduce their administrative demands on health professionals. Add definition: "Individual scope of practice" means the services for which a registrant of a regulated health profession is educated, authorized and competent to perform; [Adopted from Schedule B to Bill 256]

2. **The concept of "expanded scope of practice area"**

In theory, the College is all for the Government's aim of enabling healthcare professionals to make the most of their specific scope of practice. It's a noble goal that we fully endorse. Nonetheless, we are concerned about how section 7 defines

"expanded scope of practice area." It seems to suggest that individuals could end up performing services that fall outside of their professional realm, so long as they personally think they have the competencies to do so.

This means that individual health professionals may take autonomous decisions on what falls within their professional power. The lack of clarity in the act means that some practitioners may operate outside of the accepted limits of their profession with no regulation in place. This means that regulators cannot create standards of practice or investigate complaints regarding these services, leaving patients at risk of receiving substandard care. The result? Unregulated practice that may cause more harm than good.

RECOMMENDATION:

An expanded scope of practice for a health professional must remain within the overall scope of practice of the profession. Regulators must maintain the ability to regulate services within expanded scopes of practice. Changes to expanded scope of practice should only occur following careful consideration and in consultation with the Network.

3. **Waiver of requirements for applicants in "good standing"**

The College fully supports the aim of making it easier for qualified healthcare professionals to register and obtain licenses. However, we have some reservations about the potential impacts of Bill 256. Specifically, the vague language around what exactly constitutes "good standing" for applicants from other jurisdictions. This is a crucial consideration since the meaning of this term varies widely across different regions and fields.

By stripping regulators of their power to verify important criteria like a clean criminal record, good character, knowledge of local laws, and liability insurance, section 5(2) puts the public at risk. Even disciplinary history from other jurisdictions cannot be taken into account, leaving potential dangers unchecked. These changes may ultimately damage the public's faith in professional regulation if left unchanged. It's imperative for amendment to take place to ensure the safety and confidence of everyone involved.

RECOMMENDATION:

If this provision is to remain in Bill 256, the concept of "good standing" must either be reconsidered or defined. One potential is to include some of the same requirements as set out in the Atlantic Register announced by the Council of Atlantic Premiers with respect to physicians (full licensure to practise without conditions, restrictions, undertakings, or supervision).

NSCSW | NOVA SCOTIA COLLEGE OF SOCIAL WORKERS

Proposed language for sections 5(1) and (2).

Existing wording	Proposed wording
5 (1) Where an authority receives an application from a practitioner licensed in another province of Canada, the authority shall waive any requirement for registration, licensing or renewal of registration or licensing in accordance with the Fair Registration Practices Act, the Canadian Free Trade Agreement Implementation Act or any agreement entered into between the Government and the government of that other province of Canada. (2) An authority shall waive any requirement for registration, licensing or renewal of registration or licensing for any applicant who is registered or licensed and who is in good standing in any jurisdiction prescribed by the regulations.	5 (1) A regulator shall waive any requirement for registration, licensing or renewal of registration or licensing where: (a) it is necessary in order to comply with the Canadian Free Trade Agreement Implementation Act, or any agreement entered into between the Government and the government of that other province of Canada; (b) the regulator receives a completed application which provides satisfactory proof that the applicant meets all of the following criteria: a. the applicant holds an equivalent licence; b. the applicant is not subject to any outstanding complaints with the extra-provincial regulator; and c. there are no prohibitions, conditions, agreements or restrictions on the applicant's licence or registration with the extra-provincial regulator. "equivalent licence" means an authorization issued by an extra-provincial regulator for a person to engage in a scope of practice equivalent to the scope of practice of a registrant; "extra-provincial regulator" means any association, college, board, committee,

	registrar or other person or body in another province of Canada or a jurisdiction prescribed by the regulations responsible for making decisions respecting the registration, licensing or renewal of registration or licensing of a person with a scope of practice equivalent to the scope of practice of a profession;

4. Governor in Council may expand scope of practice areas by regulation.

The NSCSW believes that working with Government to find creative solutions for expanding scopes of practice is crucial. With the Regulated Health Professions Network Act already in place, the Network sees great potential in combining Government resources with profession-specific knowledge to achieve this goal.

What the NSCSW is fundamentally opposed to is intent of Government, through regulation to expand the scope of practice of the entire profession, with only a duty to consult the regulators required, this presents significant concern. Consultation of course is not binding. And if it is not meaningful, it is ineffective. The lack of any consultation on this Bill, provides no assurance to regulators that the expansion of a profession's scope will take into account the concerns of regulators.

The College notes that fulsome legislative mechanisms to modify regulators' scopes of practice already exist pursuant to the *Regulated Health Professions Network Act* and Regulations. Section 17 of the *Regulated Health Professions Network Act* establishes a process wherein regulators may enter into agreements regarding scope of practice where:

a) the scope of practice of a regulated health profession overlaps with the scope of practice of one or more other health professions;

b) two or more health professions share certain competencies; or

c) there are circumstances involving the interpretation of a health profession's scope of practice.

Moreover, section 17 includes notification, consultation, and overall Ministerial approval provisions.

In addition, section 18 of the *Regulated Health Professions Network Act* already establishes a process whereby a regulator may seek a modification to its scope of practice of the profession. The process is further detailed at section 3 of Regulated Health Professions Network Regulations. As with section 17, this process provides

for notification, consultation, as well as Ministerial and Governor-in-Council oversight and approval.

The process to modify the scope of practice of a profession pursuant to section 18 of the *Regulated Health Professions Network Act* was used in 2017 – 2018 to expand the scope of registered nurses and licensed practical nurses to include the recommendation, administration, and provision of naloxone:

https://novascotia.ca/just/regulations/regs/rhpmod.htm.

RECOMMENDATION:

Endorse the Network's ability to expand scopes of practice pursuant to existing statutory mechanisms within the *Regulated Health Professions Network Act.*

5. **Processing of "completed applications"**

The College recognizes the importance of streamlining the registration and licensing processes, and fully supports the intention behind subsection 5(3) of Bill 256. Our goal is to ensure that applicants from other jurisdictions receive timely treatment once their application is received by the regulator.

To that end, we welcome the introduction of a 5-business day processing window for completed applications. We firmly believe that this timeframe can be met by our members, provided that all outstanding inquiries and issues are addressed prior to submission.

We are dedicated to supporting the efficient and effective functioning of regulatory systems, and look forward to continuing to work towards this aim. However, we believe section 5(3) in Bill 256 could use some refinement for practical reasons. See, without a clear definition of "completed application", there's a lot of room for confusion. Professionals and reviewers can end up at odds about what constitutes a finished submission, and even different industries may have their own individual requirements

RECOMMENDATION:

A workable definition of "completed application" is necessary. The legislation must be clear to both manage regulators and applicants' expectations. Applicants also need to know what a completed application is.

6. **Application fees**

For many regulators, the processing of applications is a resource intensive exercise and applications fees are a significant source of revenue for regulators.

It has been mentioned the possibility of the Government reimbursing regulators for lost revenue incurred from not charging fees for registration and licensing applications, but there's no guarantee that this will actually happen unless it's explicitly stated in the Bill. Additionally, there's some confusion about whether the Bill only prohibits application fees, or if it also applies to registration and licensing fees. It's important for there to be clear and concise language in the legislation to avoid any misunderstandings.

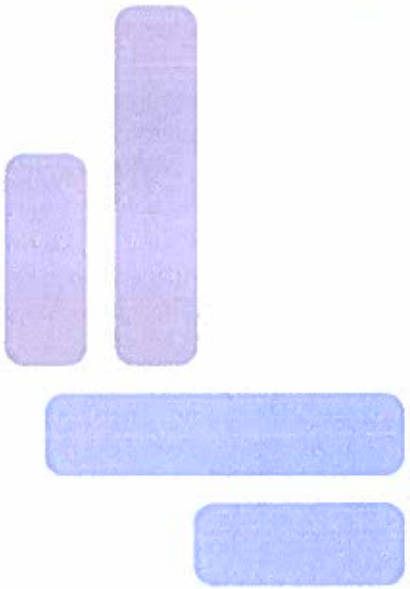
RECOMMENDATION:

Include language in the legislation to reflect Government's intent to reimburse regulators for fees.

7. Regulation-making authority to prescribe jurisdictions

The NSCSW supports the need easier for out-of-province healthcare professionals to work in Nova Scotia. It makes perfect sense that more licensed practitioners mean more access to healthcare for Nova Scotians. It's important to make sure that those incoming professionals are just as qualified as those already practicing in our province. We need to compare education and training standards and make sure everyone is on the same page. Practice is an intricate and labour-intensive exercise. The proposed vetting process for prescribing jurisdictions is entirely unclear. The NSCSW is strongly opposed about the Governor in Council having the power to waive registration and licensure criteria for all professions in a given jurisdiction. While it may work for one profession, it could be dangerous for another. This could lead to a lack of competent professionals and ultimately adversely impact public safety.

NSCSW | NOVA SCOTIA COLLEGE OF SOCIAL WORKERS



NSCSW

Suite 700 1888 Brunswick St
Halifax, Nova Scotia
B3J 3J8

Phone: (902) 429 – 7799
Fax: (902) 429 -7650
www.nscsw.org