

LAW AMENDMENTS

Bill 147 – An Act Respecting the Nova Scotia Regulated Health Professions Network November 29, 2012

(Presentation by William Lahey)

Mr. Chair, and other members of the Committee on Law Amendments, thank you for the opportunity to be here this afternoon to speak in support of Bill 147, an Act Respecting the Nova Scotia Regulated Health Professions Network.

As a member of the Schulich School of Law and a member of the Dalhousie Health Law Institute, I have been involved in the development of this legislation from its earliest conceptual stages in 2007. My involvement reflects my work as a health law scholar in studying the potential of collaboration to improve health professional regulation, including by making regulation more supportive and enabling of interprofessional collaboration in the delivery of health care.

I am sure others will speak to some of the details of the Bill. What I would like to share with you is my confidence that this legislation is not only important in a provincial but in a national context. My essential message is this: in considering Bill 147, I submit that you have an opportunity to improve health care and health

professional regulation that policy-makers and legislators in other provinces would envy.

Since at least 2002 and the Romanow Commission, interprofessional collaboration in the delivery of health care has been a major topic of discussion in health policy across the country. Usually, the focus of attention is how to make it happen through how we educate health professionals or in how we structure the health care system or compensate providers. Invariably, however, the discussion turns to the question of how to work around the regulatory framework that makes collaboration difficult or that can be misused by those who want to oppose interprofessional collaboration for reasons of self-interest.

As a result, there has been a lot of work done across the country on how to align the regulation of health providers with interprofessional collaboration in the delivery of care. In work funded by Health Canada in 2004 by a group of scholars from across the country in which I participated, in a subsequent report by the Conference Board of Canada and in a major report by the Health Professions Regulatory Advisory Council of Ontario, the conclusion has been that the solution

lies in bringing collaboration into how regulation is done as well as in to how care is delivered.

There are a number of reasons for this conclusion but the core one is this: improving health professional regulation by making it more collaborative retains the core strength of our system of professional regulation, which is that it is a system in which each profession regulates itself, while also aligning it with the behaviours and values that we expect from those who are regulated, which is that they work together in the interests of patients.

For policy-makers and legislators, the problem is how to get self-regulating professions to collaborate in their conduct of regulation. In Ontario and B.C., the solution has been legislative amendments that impose a duty to collaborate on regulatory bodies.

Given the policy context in those jurisdictions, this approach may have been the only viable option. There is a serious problem with it however: it results in collaboration being introduced into the regulatory system as one more governmental intrusion on self-regulation. It is therefore likely to result in

defensive resistance. It also means that collaboration becomes something that is likely to happen only or primarily because the law says it is required rather than because it can help to improve regulation and public protection. This is not likely to be the kind of collaboration that actually helps in supporting and enabling collaboration in the health care system.

We are very fortunate in Nova Scotia that we have another option. It is to pass legislation that the regulatory professions have themselves developed because they have proactively come to the conclusion that they need to work more collaboratively, including to support and enable the expanding collaboration taking place among their members. This legislation does not impose a duty of collaboration that the Minister of Health or some other external authority would have to enforce. Instead, it broadly enables the regulatory bodies to collaborate in the carrying out of their responsibilities when they determine that it will help them to regulate in the public interest. This is an important responsibility – indeed it is an important trust – but it is no different from the responsibility and trust they already have under their existing statutes to regulate in the public interest. It just means they will all have additional tools at their disposal to discharge that responsibility and that trust more effectively.

The fact that the legislation was collaboratively developed on the initiative of the regulated professions and that all of them are in agreement with the legislation – itself an amazing accomplishment - gives me great confidence that this legislation will not just enable but result in collaboration. More importantly, it gives me great confidence that it will result in collaboration that makes health care and regulation better for patients.

Nevertheless, it is very positive that the Bill contains a five-year mandatory review. This kind of legislated accountability is especially appropriate in a statute that depends as much as this one will on voluntary action. In my opinion, this will help to ensure that Bill 147 will be implemented with the same energy and determination with which it was developed.