



Notes for a Submission  
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To the  
Law Amendments Committee  
On  
Bill 147  
*Regulated Health Professions Network Act*

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## Introduction

Thank you and Good Afternoon. My name is Keiren Tompkins. I am the Executive Director of NSGEU and with me is Ian Johnson who is a Servicing Coordinator and Policy Analyst for the Union. We appreciate this opportunity to speak to the Law Amendments Committee about Bill 147 – *Regulated Health Professions Network Act*. Our President Joan Jessome sends her regrets for not being here this afternoon for this presentation.

We are the largest union in the province with approximately 30,000 members working in the public sector. Of our total membership, approximately half of them work in a wide range of health care occupations and settings across the province. We represent over 4,500 employees in about half of the registered bodies affected by this legislation.

NSGEU has no specific concern about the drafting of the Act or the proposed Regulations. NSGEU is not against increasing collaboration among health professions, or regulating certain occupations to protect the public interest, however, we fundamentally disagree with this proposal. In our view, the proposed *Act* is unnecessary. It proposes an additional level of regulation to deal with the consequences of legislating self regulating bodies of health professionals which are not capable of fulfilling their statutory mandates to licence and police their members. Health professionals who are employed by the District Health Authorities or long term care facilities are already over regulated.

NSGEU has been concerned for some time about the policy of successive governments to enact legislation to establish self regulating bodies with a mandate to license and police the conduct of small groups of health professionals. The fact is that most of the members of the recently created licensing bodies are employed by the District Health Authorities and long term care providers. The District Health Authorities conduct a vigorous quality and safety process which investigates incidents and addresses and corrects issues of

conduct or competence of health care professional employees. This is unlike health professions made up primarily of persons who deliver health care services to the public as a private business such as dentists, physicians or chiropractors. The Department of Health itself ensures that publicly funded health care providers meet acceptable standards. In appropriate cases it conducts systemic investigations of abuse allegations.

In our view, it is bad policy to create another layer of regulation to help solve the problems created by having regulatory framework in a profession where most of the members being regulated are employees of the District Health Authorities.

There was a time in Nova Scotia where much of the health care provided to the public was provided by small hospitals with independent boards or by relatively unregulated long term care facilities. This largely decentralized system has changed dramatically. The Capital District Health Authority and the other District Health Authorities engage in a sophisticated system of quality control and supervision of employees. Where a group of health professionals are primarily employees further regulated by a self governing profession creates a redundancy and merely duplicates what has already been done by these public employers. What may have been necessary when there were dozens of health care institutions is no longer necessary because of the evolution of the public health care bodies.

Nevertheless, the policy of successive provincial governments has been to create self governing bodies of health professionals. In recent years, this has resulted in the creation of small self regulating bodies, mostly comprised of health professionals who are employees, but which are not viable to adequately perform their statutory mandate of licensing and supervision of the conduct and competence of their members. Nevertheless, the members of these smaller professions are called upon to pay the cost of operating the self regulating body.

Employees do not have unlimited resources and the cost to effectively meet the mandate of the small self governing entities is too great to fund.

The answer to this problem in the proposed legislation is to provide the members of the health professions with another level of unnecessary regulation. The proposed Act creates a new entity which must be funded by fees from the self regulating professions which are themselves funded by levies on their members. The proposed legislation contemplates a new bureaucracy. It authorizes the appointment of an Administrator and the delegation of functions by the administrator to what appears to be additional employees of the new entity. It makes specific provisions for the payment of the fees and expenses for a person sitting on committees attending to the business of the Network. It mandates significant "collaboration" on a range of activity which, given the mandate of the Network, could be very expensive indeed.

Section 16 of the proposed *Act* contemplates "collaboration by network members on the sharing up of best practices, the development of collaborative policies, tools and resources, the training of individuals or committee members of any of the regulated health professions, research and dissemination of matters of interest to Network members, capacity building for any Network member that may benefit from the experience of other Network members and communicating with Government or other entities regarding matters of common interest to Network members. All of this will be ultimately funded by the members of the health professions who find themselves rigorously and properly supervised by public employers and subject to regulation by self-governing entities which duplicate the work of the public employers.

The proposed *Act* contemplates the creation of a central body for registration review under the *Fair Registration and Practices Act*. This is a form of regulating the regulators in matters of licensing.

The whole scheme of the proposed *Act* is to create a costly new level of regulation of members of the health professions, funded by those members, most of whom are employees and subject to the management and supervision of public employers. In our view, the problem of the lack of viability of the small self-governing entities is not best answered by creating a new level of regulation. In our view, the problem calls for re-examination of the policy of the last decade of creating self-regulating bodies for professions which are not large enough to be viable where most of the professionals are employed in the health care system by public employers.

Larger groups of health professionals like the College of Physicians and Surgeons of Nova Scotia, the College of Registered Nurses of Nova Scotia and the College of Licensed Practical Nurses of Nova Scotia are large enough to be viable. Many physicians work independently and, no doubt, a self-regulating professional body is necessary to protect the public interest. This is not so obvious for Registered Nurses and Licensed Practical Nurses.

However, the response to the absence of viability of the small groups made up of professionals who are employees of a public employer is to create another level of regulation. Instead, NSGEU suggests that the whole self-regulating policy be re-examined so that unnecessary duplication of regulation can be addressed.

The Provincial Government should carefully consider this proposal before enacting a new level of regulation. There is no similar regulatory body in the other provinces. With one exception, none of the other provinces have a network body with the powers and functions of the Network in the proposed *Act*. In Quebec, all of the professions are regulated by a central body. However, this is a full-fledged regulatory body unlike the proposed Network.

Obviously, because NSGEU represents many members of the health care professions that are regulated by self-governing entities, our perspective is the

perspective of the members. They are called upon to fund a regime which polices the conduct and capacity of members. The same members are subject to rigorous management and supervision by their public sector employer.

The public interest is not served by excessive duplication of regulation of the conduct and competence of members of the health professions. A better solution would be to authorize the Minister to exempt employees of the District Health Authorities from regulation where the Minister is satisfied that the public interest is protected.

Successive Governments may have taken comfort in the fact that the self regulating entities are funded by levies on the members and not on the Government itself. Just because the Government does not have to pay for this form of regulation, it does not mean that the public is better off having multiple levels of duplicated supervision. Ultimately, the Provincial Government ends up paying for unnecessary duplication of resources. Our members' expectations of increases in their wages are driven by their ultimate take home pay after deductions and payment of compulsory fees. Escalation in the costs of regulatory bodies translates into demand at the bargaining table for increases in pay aimed at preserving and improving the standard of living of the members. Ultimately, the Government pays for self-regulating bodies.

NSGEU suggests that the proposed legislation be set aside for further consideration. We propose that a full scale review be undertaken of the requirement for self-regulatory professions to protect the public interest in the conduct and competence of health professions in Nova Scotia. However, the fact of the proposal of this health Network is a strong signal that many of the small self-governing bodies are not capable of meeting their statutory mandate. Consideration needs to be given as to whether these entities are needed except where the health professionals involved provide their services primarily in the private sector.

## **Conclusion**

Considering all the questions and concerns we have generated in the short time we have had to review and reflect on Bill 147, we urge the Committee to recommend that this Bill be put on hold. In our view, a full analysis and broad consultation is needed with all interested individuals and organizations. Nothing less will properly serve the public and front-line workers.

We welcome your questions and comments.

## **Related Questions and Concerns**

### **The Process**

We understand that this legislation was developed over a five-year period which is understandable for all the many provisions it has. But we were only given two weeks to respond in advance of Bill 147 being introduced. And we suspect this same limited time period applied to other unions and perhaps, other stakeholders.

How can we be expected to support a piece of legislation about which neither we nor our members have had any role in its development even though there are major potential implications for our members? Why is it that we were only recently told about it and never given any opportunity for input? How can this legislation be developed without front-line worker participation?

What is the rush? If it can take five years for the Network to develop this legislation, why should it be pushed through without taking a little bit longer to ensure that front-line workers have a voice?

At the very least, we and probably other unions need time to talk with our members in the respective regulatory bodies to see what they think about this legislation and its various provisions. Our members deserve to be heard.

In May of this year, the members of the College of Registered Nurses of Nova Scotia passed a resolution at their Annual General Meeting entitled "RNs in the Changing Health Care System" which called on the College to establish a working group including 50% of frontline staff and also, representing various nursing practices and geographical areas, to identify scope of practice issues and clarify the role of RNs with the purpose of protecting the public and clarifying the role of RNs. No mention was made during or since that AGM about this



legislation, and yet, it could have profound implications for how this resolution is implemented.

### **Is This Bill Really Necessary?**

The Network has informally existed for five years. What is to be gained if it is to be formally institutionalized? What would prevent or limit collaboration if the Network was not a formal entity?

Why is Nova Scotia the only jurisdiction proposing this legislation to date? Why have other jurisdictions chosen not to go this route? How much consideration was given to other alternatives or options besides having a formalized Network such as having a single or fewer regulatory bodies or having umbrella legislation that would apply to all regulatory bodies?

### **Who Really Benefits From This Bill?**

Who stands to gain most from improved health-profession regulation? Has anyone done a detailed and comprehensive cost-benefit analysis? To what extent is this really about cost-reduction and cost-savings? What will be the impact on front-line workers and how they provide the important services to patients? How will quality of care be affected? Whatever happened to the promotion of health professions and service to the members? How will it help to increase protection to the public?

### **Centralizing Control Over Front-Line Workers**

In its “Collaborative Regulatory Processes” section, Bill 147 lays the foundation for major potential changes in scopes of practice between and among most, if not all, the health professions, more intrusive investigative processes, and more limited registrations or licensing decisions. It would be mandatory for all regulated health professions to join, to pay fees, and to participate in the Network. It would

create a whole new superstructure that could hire staff of its own, acquire property, set up an office, and spend funds. The Council for the Network can even make its own regulations subject to the approval of the government according to Section 15.

This, in turn, could create a whole new set of pressures and stresses for our members who are connected to these regulatory bodies, and who are already facing enormous stresses and pressures in the workplace as it is.

### **Increased Surveillance and Reduced Privacy**

Bill 147 allows for more collaborative investigative and review processes which could open the door to more scrutiny and surveillance of our members with fewer protections for their privacy. Is it realistic to think that there will not be a greater risk of releasing personal information about a provider if more than one regulatory body is involved? Has this risk been assessed and if so, with what results? Has the FOIPOP Review Officer been asked to assess the privacy risks for members?

### **Impact on Unregulated Health Professions**

What will happen to those health providers such as paramedics and continuing care assistants who do not have a regulatory body if this Bill is put into effect? What pressures will be brought to bear on these providers once a formalized Network is in place?

### **Impact on Members with Two or More Regulating Bodies**

What could be the potential problems for members who belong to two or more regulatory bodies? Could they be facing additional complications in getting registered and engaging in their practices?

## **Cost to Members and the Public**

We have been told that there will be minimal costs associated with the new formalized Network, but we were also told that projected costs and budgets have not yet been prepared. Will dues from the participating regulatory bodies and in-kind supports be enough to cover the projected costs? Could there be a point in a few years' time where individual members will be expected to cover all or, at least, part of the costs of the formalized Network?

## **Limited Transparency and Accountability**

From what we can see in the Bill, there will not be any requirements for the new formalized Network to be accountable to the members of each regulatory body. There is a requirement for an annual meeting and an annual report including financial statements in Section 8, but nothing to include or inform individual members of the regulatory bodies or even, the public to whom the Network wants to better serve