

# Labour Mobility in Nova Scotia

Which legislation applies, when & to whom?

What regulating bodies may, and may not, require of interprovincial applicants?

How is this different than the CFTA (i.e. what we were already doing)?

# *Free Trade and Mobility within Canada Act (FTMWCA)*

- ▶ FTMWCA is now in force, with compliance guidelines circulated.
- ▶ **Regulations are currently being Drafted and will determine finer details.**
- ▶ These slides support the FTMWCA, associated guidelines, and place this LM legislation in the context of the other LM legislation (CFTAIA and PACA)

# 5 Application Types

## ...and which legislation applies in each case:

- 1) **“New”:**
  - Canadian Credentials and no current license – i.e., ‘new’ to the profession
- 2) **“International”:**
  - applications that rely on international credentials
- 3) **“Interprovincial” (3 types)**- applications that include a current license from a non-NS Canadian jurisdiction:
  - ▶ **Type1-CFTAIA applies** if:
    - neither PACA nor FTMWCA apply; and
    - the occupation is regulated in both jurisdictions
  - ▶ **Type2-PACA applies** if it is for a “regulated health profession” as defined in the PACA.
  - ▶ **Type3-FTMWCA applies** if:
    - PACA does not apply (e.g. not a health occupation); and
    - it is from a “reciprocating jurisdiction” under the FTMWCA; and
    - the license is deemed “equivalent” under the FTMWCA.

**\* FRPA and the RB’s governing legislation apply in all cases unless there is a conflict...**

# Labour Mobility Legislation ***“Prevails”***

- ▶ CFTAIA (Section 4):

*“Where there is a conflict between this Act or the regulations and any other enactment, this Act and the regulations **prevail.**”*

- ▶ PACA (Section 4):

*“In the event of a conflict between this Act and any other enactment, this Act **prevails.**”*

- ▶ FTMWCA (Section 3):

*“In the event of a conflict between this Act or the regulations and any other enactment, this Act and the regulations **prevail.**”*

# Hierarchy of legislation

## (Order of compliance in the event of conflicts):

### 1) Labour Mobility Legislation (CFTAIA, PACA, FTMWCA) ***“Prevails”***

- PACA and FTMWCA go beyond CFTAIA by:
  - Further reducing list of permissible requirements; and
  - Imposing application processing time limits- (5 days, 10 days, and no limit, respectively)...and, therefore, do not conflict with, the CFTAIA.
- PACA and FTMWCA can not apply at the same time and therefore can not conflict with one another.

### 2) RB's Governing Legislation

### 3) FRPA

- Always required but not enforceable in the event of conflicts (Section 17).

# Permissible Requirements for CFTAIA Applicants (provided they are “no more onerous”):

- ✓ Application form
- ✓ Proof of current licensure (all)
- ✓ Evidence that the license is in good standing
- ✓ Approved “Legitimate Objective Exception” (LOE) measures
- ✓ Application or processing fee
- ✓ Insurance or malpractice coverage
- ✓ The requirement to post a bond
- ✓ Criminal background check
- ✓ Evidence of good character
- ✓ demonstrated knowledge of measures specific to NS (eg. jurisprudence exam)
- ✓ demonstrated proficiency in either English or French

**...if it's not on the list, it cannot be required.**

# Permissible Requirements for PACA Applicants (compared to CFTA):

- ✓ Application form
- ✓ Proof of current licensure (all)
- ✓ Evidence that the license is in good standing
- ✓ Approved “Legitimate Objective Exception” (LOE) measures
- ✓ ~~Application or processing fee~~ (first year licensing fees are permitted)
- ✓ Insurance or malpractice coverage
- ✓ The requirement to post a bond
- ✓ Criminal background check
- ✓ Evidence of good character
- ✓ demonstrated knowledge of measures specific to NS (eg. jurisprudence exam)
- ✓ demonstrated proficiency in either English or French

## Additional Requirement for RB under the PACA:

...Applications must be processed within 5 business days.

**...if it's not on the list, it cannot be required.**

# Permissible Requirements for **FTMWCA** Applicants (compared to CFTA):

- ✓ Application form
- ✓ Proof of current licensure (all)
- ✓ Evidence that the license is in good standing
- ~~✓ Approved “Legitimate Objective Exception” (LOE) measures~~
- ✓ Application or processing fee
- ✓ Insurance or malpractice coverage
- ✓ The requirement to post a bond
- ~~✓ Criminal background check~~
- ~~✓ Evidence of good character~~
- ~~✓ demonstrated knowledge of measures specific to NS (eg. jurisprudence exam)~~
- ~~✓ demonstrated proficiency in either English or French~~

## **Additional Requirement for RB under the FTMWCA:**

...Applications must be processed within 10 business days.

**...if it's not on the list, it cannot be required.**



# Questions? Comments? Discussion?

...contact me any time for all your LM needs at:

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