

## 3.10 Self-regulated Professions Policy

### Policy Statement

It is the policy of the Nova Scotia government to establish self-regulated professions only when self-regulation is determined to be in the best interests of the public.

### Definitions

#### **ADVISORY COMMITTEE ON SELF-REGULATION**

The interdepartmental working group established for purposes of developing and sharing knowledge and expertise respecting self-regulated professions or occupations, and providing advice to departments and, when requested, to Treasury and Policy Board. Terms of reference for the Advisory Group are set out in Schedule C to this Policy.

#### **GUIDE**

The document entitled “Self-regulation in Nova Scotia: A Guide for Nova Scotia Government Departments” attached as Schedule B.

#### **RESPONSIBLE DEPARTMENT**

The department that is asked to analyze a proposal for new or amended legislation respecting a self-regulated profession.

#### **RESPONSIBLE MINISTER**

The Minister responsible for the legislation governing a self-regulated profession.

#### **SELF-REGULATED PROFESSION**

An occupation or profession that has been authorized by government to regulate its own members.

### Policy Objectives

The objectives of the policy are to ensure that Treasury and Policy Board receives complete, accurate and relevant information upon which to make decisions respecting self-regulated professions and to improve the quality and consistency of submissions requesting new or amended legislation.

## Application

The policy applies to any request for new legislation establishing a self-regulated profession, and any amendments to existing legislation governing a self-regulated profession.

## Policy Directives

1. In general, no request for legislation that would establish a new self-regulated profession may be submitted to Executive Council for approval until the responsible department is able to demonstrate that:
  - a. There are substantial risks to individual clients and/or the public, which are not remote and cannot be addressed more efficiently and effectively through means other than self-regulation.
  - b. The members of the profession have the capacity to self-regulate – that is,
    - i. they are sufficiently well-organized and have the financial and human resources needed to assume responsibility for self-regulation;
    - ii. they have demonstrated a commitment to democratic principles, including principles of fundamental justice, in their dealings with one another, clients and the general public; and
    - iii. they have demonstrated they are able to act collectively in the best interests of clients and the general public.
  - c. The majority of the proposed members deliver services in circumstances where they cannot be effectively supervised by others, and clients are unable to assess the quality of services provided.
  - d. There is a defined route of entry to the profession and a body of knowledge that could form the basis of practice standards.
  - e. The anticipated benefits of establishing the new profession outweigh the negative impacts of doing so (including increased costs to consumers, government and other professions, reduced access to services, and barriers to labour mobility and immigration).
  - f. The proposed legislation satisfies the requirements set out in Schedule A.
  - g. The issues and recommendations set out in the Guide have been considered by the responsible department.
2. In general, no request to amend existing legislation in respect to a self-regulated profession may be submitted to Executive Council unless the responsible department is able to demonstrate that:

- a. The proposed amendments will address substantial or pressing issues, and will enhance the profession's ability to regulate itself in the public interest.
- b. The anticipated benefits of making the amendments outweigh the negative impacts of doing so.
- c. The proposed amendments satisfy any requirements set out in Schedule A that relate to matters addressed by the amendments, provided that Executive Council may waive one or more requirements where the existing provisions, amended in the manner requested, would sufficiently support government's policy objectives in relation to those matters.
- d. The department has concluded a more comprehensive review of the existing statute is not needed at present, taking into account:
  - i. The history of the existing legislation;
  - ii. Whether the existing legislation is consistent with government's current policy objectives in respect to self-regulated professions;
  - iii. Whether the profession has demonstrated a robust capacity and commitment to regulating itself in the public interest; and
  - iv. The significance and urgency of the issues the proposed amendments are designed to address.

### **Policy Guidelines**

Policy guidelines are set out in the Guide attached as Schedule B, which Guide may be revised from time to time with the approval of Treasury and Policy Board or the Clerk of Executive Council.

### **Accountability**

Deputy Ministers are accountable for ensuring the requirements of the Policy have been met before a request for legislation is submitted to Executive Council for consideration.

### **Monitoring**

Executive Council Office is responsible for monitoring implementation of the Policy, with input and advice from the Advisory Committee on Self-regulation.

## **Enquiries**

Executive Director, Operations  
Executive Council Office  
(902) 424-7759

---

Approval date: ***January 25, 2017***

Effective date: ***January 25, 2017***

Approved by: ***Treasury and Policy Board***

Administrative update:

---

## Schedule A

# Requirements for New or Amended Legislation respecting Self-regulated Professions

1. The legislation clearly articulates a mandate for the profession and provides that the primary duty of the profession is to regulate itself in the public interest.
2. The proposed legislation establishes basic rules in respect to:
  - a. The composition of the profession's governing body;
  - b. The profession's scope of practice
  - c. Registration requirements;
  - d. Investigation and resolution of complaints; and
  - e. Rights of review and appeal in respect to registration decisions and disciplinary processes.
3. The legislation complies with the requirements of the *Fair Registration Practices Act* and applicable trade agreements.
4. The legislation creates registration, complaints investigation and disciplinary procedures in compliance with principles of fundamental justice and the Canadian Charter or Rights and Freedoms.
5. The legislation provides that at least one third of all members of the governing board are public representatives appointed by government and at least one of those members serves on each statutory committee responsible for reviewing registration decisions or investigating or disciplining members.
6. The legislation creates appropriate mechanisms for ensuring accountability reporting to members of the profession, the responsible Minister and the general public.
7. The legislation is drafted in accordance with the following general principles:
  - a. Legislation and regulations governing self-regulated professions should be drafted in accordance with the drafting conventions that apply to other sorts of legislation and regulations;

- b. Powers may be distributed in various ways across legislation, regulation and by-laws, provided they are distributed in a manner that strikes a balance acceptable to government between granting the flexibility and autonomy professions need to regulate themselves effectively and furthering other key policy objectives (such as minimizing unnecessary regulation, and establishing an appropriate degree of transparency, stakeholder engagement and accountability to clients, members, government and the public);
- c. In the interest of transparency, matters of interest to those outside the profession (including government, the general public, potential members, employers and or clients/patients) should normally be dealt with in legislation or regulations made or approved by government rather than in by-laws;
- d. In general, only matters that are administrative in nature and internal to the profession should be dealt with in by-laws, and by-laws should be readily accessible to both members of the profession and the public;
- e. In determining whether a matter will be dealt with in legislation, regulations or by-laws, the department should consider the following questions:
  - i. Whose interests may be affected?
  - ii. Who needs ready access to the rules?
  - iii. Is public accountability and transparency needed to maintain public confidence in the profession and/or the legislative scheme?
  - iv. Is the matter one that could have significant implications for clients, the public and/or some segment of the profession?
  - v. How frequently do the rules respecting the matter require updating?
- f. The legislation should incorporate rules respecting the creation of regulations and by-laws that enable members to have an appropriate degree of involvement in their development but do not impede the profession's ability to regulate itself in the public interest; for example, legislation should generally include a requirement that members be consulted on proposed regulations and by-laws and may, in appropriate circumstances, require that by-laws be approved or ratified by members.

**Schedule B**

# **Self-regulation in Nova Scotia: A Guide for Nova Scotia Government Departments**

Available on-line at: <http://novascotia.ca/treasuryboard/manuals/PDF/SRPNSGuide.pdf>

## Schedule C

# Terms of Reference for the Advisory Committee on Self-regulation

## Purpose

- The purpose of the Advisory Committee is to provide advice and support to government departments and offices charged with making recommendations in respect to legislative and regulatory proposals respecting self-regulated professions.

## Guiding Principles

- The Advisory Committee works collaboratively to maintain a sound understanding of best practices in regards to self-regulated professions and to achieve common objectives.
- The Advisory Committee respects a diversity of opinion while working to achieve a corporate consensus on issues of concern to government.

## Roles and Responsibilities

- Contribute to developing a better understanding across government of principles and best practices in respect to self-regulated professions and departments' roles in relation to them.
- Review and make recommendations in respect to amending the Treasury and Policy Board Policy respecting Self-regulated Professions as needed.
- Review and update “Self-regulation in Nova Scotia: A Guide for Nova Scotia Government Departments” and the accompanying Fact Sheet for Proponents as needed.
- When requested to do so, share insights and expertise with government departments responsible for reviewing legislative or regulatory proposals respecting self-regulated professions.
- Review legislative or regulatory proposals respecting self-regulation when requested to do so by Treasury and Policy Board or Executive Council.

## Information/Reporting

- The Advisory Committee will provide an annual report on its activities to the Deputy Minister responsible for Treasury and Policy Board.



## **Procedures**

- Members will make best efforts to attend all Committee meetings.
- Alternates may attend Advisory Committee meetings to ensure continuity of participation.

## **Composition**

- The Advisory Committee will consist of representatives appointed by a broad range of government departments and offices, including at least the following: the Department of Justice, the Department of Health and Wellness, the Office of Service Nova Scotia, the Department of Labour and Advanced Education, the Office of Immigration, and Executive Council Office.
- Advisory Committee meetings will be co-chaired and coordinated by representatives of Labour and Advanced Education and the Department of Health and Wellness.

## **Frequency of Meetings**

- The Advisory Committee will meet at least annually to consider whether amendments to the Policy, Guide, Fact Sheet or these Terms of Reference should be recommended.

