

**Social Worker Legislation for the  
Northwest Territories**

**A Discussion Paper**

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**Field LLP**

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## **I. INTRODUCTION**

### **A. Professional Regulation and the Purpose of This Discussion Paper**

The regulation of all professionals has at its core the protection of the public and the promotion and enforcement of high standards of conduct. Professionals, governments and members of the public all have an interest in seeing those objectives achieved.

The Supreme Court of Canada has concluded that the importance of the proper regulation of professions is difficult to overstate.<sup>1</sup> The public is protected by the assurance that only qualified and competent professionals are permitted to practise, and that members of a profession conform to appropriate standards of conduct. Professionals have an interest in ridding their profession of the incompetent and unethical, lest their own reputations are impugned. Appropriate regulation and disciplinary processes also assist professionals accused of wrongdoing by ensuring their treatment is fair and just, and recognizing that work is “an essential component of his or her sense of identity, self-worth and emotional well-being.”<sup>2</sup>

The Association of Social Workers in Northern Canada (“ASWNC”) has been the primary champion for the regulation of social work in the Northwest Territories (“NWT”). In recognition of the importance of social work professionals and professionalism in the NWT, the Department of Health and Social Services (“HSS”), of the Government of the Northwest Territories, supports the initiative to examine the introduction of social work legislation in the NWT.

Although the precise number of social workers in the NWT is unknown, the HSS estimates the number to be less than 150, the majority of whom are GNWT employees or HSS contractors or employees of a non-governmental agency contracted by the GNWT.

The HSS requested a discussion paper that would outline the most significant issues to consider when developing legislation to govern social workers in the NWT. This paper is the result of consultations with a number of people with experience in the regulation of social work, as well as a review of social work regulation currently in place across the country. Each jurisdiction in the country is different, and the structures in place in one province may be ill-suited to another. The NWT is unique in many ways, including its sparse and richly multi-cultural population, vast landscape, and lack of infrastructure. This discussion paper’s objective is not to recommend a course of action but to present alternatives to be explored by those who will be most affected by regulation.

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<sup>1</sup> *Rocket v. Royal College of Dental Surgeons (Ontario)* (1990), 71 D.L.R. (4<sup>th</sup>) 68 at 80 (S.C.C.).

<sup>2</sup> *Reference Re Public Service Employee Relations Act (Alberta)*, [1987] 1 S.C.R. 313 at 368.

## B. Definition of Terms

Certain professional regulatory terms are subject to differing definitions. The definitions below are presented to give a common understanding for the purposes of this discussion paper.

TERM	DEFINITION
Exclusive Scope of Practice <sup>3</sup>	A regulatory model under which members of a profession are granted by the legislation the exclusive right to provide a particular service to the public.
Right to Title	A regulatory model that allows only members of the regulatory body to use a certain professional title, as stipulated in the legislation.
Controlled Acts System	A regulatory model under which specific tasks or activities are allowed to be performed only by a registered professional. Rather than regulating an entire field of practice, the legislation regulates only the activities that have the most potential for harm.
Mandatory Registration	<p>Mandatory registration is a model under which a person is required to be registered if he or she, depending on the particular legislation:</p> <ul style="list-style-type: none"> <li>(a) provides professional services to the public;</li> <li>(b) wishes to use certain protected titles, or</li> <li>(c) wishes to perform controlled acts.</li> </ul>
Regulatory Body	The entity that administers and enforces the provisions of the legislation, with its main purpose being protection of the public.

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<sup>3</sup> The definitions for Exclusive Scope of Practice, Right to Title, and Controlled Acts System are based on those from James T. Casey, *Status Report and Analysis of Health Professional Regulations in Canada*, A commissioned report prepared for the Health Canada Federal/Provincial/Territorial Advisory Committee on Health Human Resources, Unpublished, as referenced in James T. Casey and Frances Picherak, “The Regulation of Complementary and Alternative Health Care Practitioners: Policy Considerations” in *Perspectives on Complementary and Alternative Health Care*, Health Canada, 2001.

Professional Association	The entity that supports and promotes the profession, and may provide professional development opportunities to its members.
Registration Qualifications	The minimum entry requirements for registration.

## II. PROJECT METHODOLOGY

### A. Project Steps

The social worker regulation project has had a number of contributing stakeholders, and will continue to do so. Below, the significant milestones of the project are outlined.

1. Field LLP, together with a working group comprised of representatives from the Department of Health and Social Services, and a number of social workers who are familiar with the practice of social work in the north (collectively referred to as “the Working Group”), prepared a list of preliminary issues for consideration.
2. The Working Group identified a number of individuals to interview as part of an initial scoping exercise. Field LLP conducted interviews with the following individuals to ascertain their opinions and experience regarding the regulation of social workers in the NWT or elsewhere:
  - Robert Swan (Chief Social Worker in the NWT)
  - Sandy Little (Social Worker in the NWT)
  - Diana Thompson (President of the Association of Social Workers in Northern Canada, Social Worker in Nunavut)
  - Cathy Cashen (Vice-President of the Association of Social Workers in Northern Canada, Social Worker in the Yukon)
  - Rod Adachi (Executive Director & Registrar, Alberta College of Social Workers)
  - Suzanne McKenna (Registrar and former Executive Director, New Brunswick Association of Social Workers)
  - Dr. Gayla Rogers (Dean of Social Work, University of Calgary)
  - Esther Doucette (Staff Member, Canadian Association of Social Workers)
  - Lisa Crockwell (Executive Director and Registrar, Newfoundland and Labrador Association of Social Workers)

- Miriam Browne (Executive Director and Registrar, Manitoba Social Worker Association)
  - Glenda McDonald (CEO and Registrar, Ontario Association of Social Workers)
3. Field LLP produced an initial scoping paper to outline the feedback from the interviewees, and highlight the main areas for discussion. The HSS circulated the paper to the Working Group for feedback.
  4. Field LLP reviewed the social worker legislation available in all other Canadian common law jurisdictions to determine the different models used across the country. Field LLP also reviewed other professional legislation in the NWT.
  5. The HSS conducted an “environmental scan” to determine the professional regulatory issues of concern throughout the Canadian social worker community.
  6. Field LLP prepared a detailed outline of this Discussion Paper. The HSS circulated the outline to the Working Group for feedback.
  7. Field LLP prepared this discussion paper, which will be circulated for feedback and consideration by the Working Group, as well as other stakeholders in the process to introduce social worker legislation in the NWT.

### ***FUTURE STEPS***

8. The HSS will organize consultations in the NWT with social work stakeholders, who will explore the options, benefits and drawbacks of different models of regulation.
9. Field LLP will assist the HSS to prepare a legislative proposal and drafting instructions, based on the decisions that result from all the above steps.

## **III. THE CURRENT STATUS OF SOCIAL WORKERS IN THE NWT**

### **A. Social Work Positions in the NWT**

Social work is not regulated in the NWT, similar to several other jurisdictions in Canada (Yukon, Nunavut, Manitoba). This lack of regulation means no territory-wide standards are in force. However, this does not mean that no standards exist at all. Employers, practising social workers, and those who work with social workers have the biggest roles to play in establishing roles and standards of conduct for social workers, even in the absence of regulation.

Social work positions in the NWT and their corresponding educational requirements have been canvassed by the GNWT. Social work graduates in the NWT work mostly in the GNWT departments of Health and Social Services, Justice and Education, Culture, and Employment. Many work in positions that require social work or other social science education, but are not classified as “social work” by the employer.

The precise number of social workers in the NWT is unknown given that social workers are not required to register with any organization. Currently, over 100 people are members of the ASWNC, which includes social workers from the Yukon and Nunavut. It is estimated that approximately 150 social workers practise in the NWT.

## **B. Aurora College Social Work Program**

The only social work educational program physically located in the NWT is at Aurora College. Aurora College is the most northern community college in Canada, with campuses located in Inuvik, Yellowknife and Fort Smith, and approximately two dozen Community Learning Centres located throughout the NWT.

The Social Work Program at Aurora College has recently been under review. In September, 2007, the Social Work Diploma Program will be offered only at the Yellowknife campus with no current plans to offer the program at any other campus. As of the writing of this paper (April 2007), the Social Work Program instructors had yet to be hired.

The Program includes transfer options with the University of Regina Bachelor of Social Work Program, and students accepted into the Aurora Social Work Program are required to complete the University of Regina application and registration forms and fees, as well as submit appropriate documentation, including transcripts, to the University of Regina.

The Social Work Diploma Program offered by Aurora College consists of 15 core courses (66 credits), which can be completed in two years. To be eligible for a practicum, students must obtain an average of 70% in their courses, academic standing that is consistent with the requirements at the University of Regina for practicum eligibility.

The Social Work Program at Aurora College has a uniquely northern perspective, and states the following as one of its objectives:

To provide a Northern, multicultural focus to course work and field practica by integrating Northern and traditional knowledge into all Program activities. Northern Social Service personnel and holders of traditional knowledge will provide resources and support for the Program.

For more information on the Aurora Social Work Program’s objectives and required courses, see Appendix B below.

### **C. Social Work Competencies and Corresponding Educational Requirements in the NWT**

The GNWT conducted a review of the Aurora Social Work program and its contents, and contrasted the program with the competencies required for a broad spectrum of positions in the GNWT that rely on the skills and knowledge that can be acquired through a social work diploma.<sup>4</sup> The contents of the review will not be repeated here, except to say that the conclusion was that the Aurora program addressed all the competencies in at least one of the social work courses offered. Some changes were suggested to strengthen the transfer of knowledge from the classroom to the workplace.

Recommendations to assist in strengthening the program included the incorporation into the program of the following:

- Workshops to expose students to working as members of an integrated team of diverse professionals such as nurses, police, probation officers, correctional officers, mental health workers, addictions workers, restorative justice staff, counsellors and teachers.
- Non-violent crisis intervention and verbal judo.
- Integrated service delivery model throughout the program.

A recommendation was also made to base the social work program in Yellowknife, a recommendation that will be addressed in September, 2007, when Aurora College begins offering its social work program in Yellowknife.

### **D. Risks Associated with Unregulated Social Work**

Social work provides complex services to people from all walks of life. Social workers are among the professionals who provide the most direct care for mentally ill people.<sup>5</sup> Social work clients are often physically, emotionally, or financially vulnerable. Social workers are in unique positions vis-à-vis their clients, and as such must deal with difficult situations and challenging ethical dilemmas.

The professional regulatory mechanisms that are generally considered to reduce risks to the public are: standard education requirements, mandatory registration, practice standards, codes of ethics, mandatory continuing competence, and full disclosure requirements to the public, particularly regarding potential conflicts of interest.<sup>6</sup>

The risks associated with unregulated social work are that:

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<sup>4</sup> Alana Mero, "*Analysis of the Aurora College Social Work Program and Social Work Competencies, December 14, 2006*", Department of Health and Social Services, December, 2006.

<sup>5</sup> *The Role of Social Work in Mental Health*, Canadian Association of Social Workers, May 2001

<sup>6</sup> Casey and Picherak, *supra*.

- Social workers in the NWT have no enforceable standards of conduct, except that which is imposed by employers.
- Social workers in the NWT are not held accountable to a common code of ethics. Ethical practice is subject only to employer review. This is made more difficult when the supervisors themselves are not social workers.
- Social workers can lack the same basic educational underpinnings, making their approaches to practice and competence levels unacceptably variable.
- Nothing stops anyone from calling themselves a social worker, regardless of their level of competence or education.
- Members of the public have no statutory process through which to bring a complaint against a social worker.
- Social workers are under no statutory obligation to make disclosures to their clients regarding their conflicts of interest.
- Social workers may be undervalued by employers and the public alike, given that they have no monitoring regulatory body.

In contrast, a regulatory body that operates under legislation limiting the ability of individuals to enter practice as a social worker achieves the following:

- Ensures that only qualified professionals are registered.
- Assists employers in hiring competent social workers by vetting social workers' qualifications.
- Informs consumers looking for services.
- Provides standards of practice.
- Provides codes of ethics to registered social workers.
- Informs clients about expectations of good practice, allowing them to expect a certain level of competence from all registered social workers across the NWT.

#### IV. LEGISLATIVE REVIEW

##### A. Other NWT Health Profession Regulation

Registered Nurses in the NWT are self-regulating, as set in the *Nursing Profession Act*.<sup>7</sup> Registered Nurses are the only health professionals in the NWT that are self-governing. All others are governed through the HSS.

The HSS has responsibility for the administration of 11 different statutes which govern 12 health professions. The professions for which the HSS is the regulatory body are as follows:

- Dental Therapists
- Dental Hygienists
- Dental Mechanics (Denturists)
- Dentists
- Licensed Practical Nurses
- Midwives
- Ophthalmic Medical Assistants
- Optometrists
- Pharmacists
- Physicians
- Psychologists
- Veterinarians

Professionals wishing to work in the NWT as, or call themselves one of the above professionals, must be registered and licensed. The legislative model differs by profession. For instance, no one can practise medicine in the NWT unless they are registered and holding a valid licence.<sup>8</sup> Unless a person is registered, a person cannot use the title “Registered Mid-Wife.”<sup>9</sup> Similarly, only registered Licensed Practical Nurses have the right to use the title “L.P.N.”<sup>10</sup>

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<sup>7</sup> *Nursing Profession Act*, S.N.W.T. 2003, c. 15.

<sup>8</sup> *Medical Profession Act*, R.S.N.W.T. 1988, c.M-9, s. 2.

<sup>9</sup> *Midwifery Profession Act*, S.N.W.T. 2003, c.21, s. 51.

<sup>10</sup> *Licensed Practical Nurses Act*, R.S.N.W.T. 1988, c.C-2, s. 4.

## B. Social Worker Legislation in other Jurisdictions

The social worker legislation across the country varies significantly. Full explanations of the regulatory models used in most Canadian jurisdictions are contained in Appendix A of this paper.

Below is a tabular summary of the models employed in other jurisdictions.

Province	Type of Registration	Minimum Educational Requirements*	Protected Titles	Other Comments
British Columbia	Right to Title	B.S.W.	Social Worker Registered Social Worker	
Alberta	Right to Title Controlled Acts	Diploma	Social Worker Registered Social Worker S.W., R.S.W., Soc. Wkr.	Only Controlled Acts system and lowest education requirement. This is a system of mandatory registration.
Saskatchewan	Right to Title	B.S.W. or B.I.S.W.	Social Worker Registered Social Worker	
Manitoba	Voluntary	B.S.W.	None	Only unregulated province
Ontario	Right to Title	B.S.W. for S.W. & Diploma for S.S.W.**	Social Worker Registered Social Worker Social Services Worker Registered Social Services Worker	Ontario only jurisdiction with two levels of registration.
New Brunswick	Exclusive Scope of Practice Right to Title	B.S.W.	Social Worker	
Nova Scotia	Exclusive Scope of Practice Right to Title	B.S.W.	Social Worker Registered Social Worker	
Prince Edward Island	Exclusive Scope of Practice Right to Title	B.S.W.	Social Worker	
Newfoundland/ Labrador	Exclusive Scope of Practice Right to Title	B.S.W.	Social Worker Registered Social Worker R.S.W.	

\* B.S.W. means Bachelor of Social Work. B.I.S.W. means Bachelor of Indian Social Work. Diploma means a Diploma in Social Work. All the minimum educational qualifications must come from approved or accredited educational institutions.

\*\* S.W. means social worker and S.S.W. means social services worker.

## V. ISSUES FOR DISCUSSION

**Question for Consultation:** which regulatory model(s) will suit the NWT best?

The central regulatory issue to discuss and decide, and from which most other decisions flow, is which model of registration is the most appropriate for the NWT. As seen in the other jurisdictions, any one of a number of models is possible, and they can be combined. Accordingly, below is a more thorough discussion of the different models.

### **A. Mandatory Registration**

General consensus among organizations that regulate professions is that some form of mandatory registration is necessary and desirable to reduce risks to the public who interact with health professionals.<sup>11</sup> Mandatory systems offer the public more accountability and assurance. They clarify the role of the professional regulatory body for the public and the members of the body. The Interviewees, all current professional social workers, were overwhelmingly in favour of some form of mandatory regime for the public's interests and their own.

The main question is for whom is registration mandatory: all those who use a certain professional designation (i.e., right to title), all those who practise in a professional area (i.e., exclusive scope of practice), or all those who perform certain acts (i.e., controlled acts)? No right answer exists to this question; the answer depends on the assessment of risk, objectives of regulation, and practicalities of implementation. The three dominant models are outlined below. A voluntary system of registration is also possible, as is currently in use in Manitoba. However, the risks to the public and the lack of recognition of the profession remain as issues under this system.<sup>12</sup>

The determination of the type of regulatory model will drive the decisions in many other areas. It is the fundamental starting point from which the remainder of the legislative process will flow.

### **B. Right to Title**

Regulatory legislation that gives the right to use a certain professional title can be very effective and relatively simple for regulating professions. Right to title legislation does not require a definition of social work to be enforceable. Title protection can work to effect a form of mandatory registration system for everyone using a certain title. This is particularly effective regulation for professions that have broad and non-exclusive scopes of practice, which make it more difficult to mandate a certain kind of practise to be registered.

Right to title legislation can be broad or narrow. Broader legislative provisions can protect the use of multiple titles, and include provisions regarding "holding oneself out as" a social worker. This allows for greater ability to prosecute offences, since the prohibitions against unregistered use of titles would be broader.

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<sup>11</sup> Casey, *Regulation of the Professions*, *supra*, p. 1-3.

<sup>12</sup> Casey and Picherak, *supra*, VI. 73.

A narrow title protection provision may only protect a very specific title, such as “registered social worker”. This makes the legislation apply to only a small group of people who wish or are required to be registered. The registrants under a narrow system are still subject to standards of conduct and codes of ethics, but the public will not be protected as greatly from those choosing to use an alternative title. The “registered” portion of any professional title serves as an indicator to the public that some level of education and training is attained, and the professional’s activities fall within the review or assessment powers of a regulatory body.

The core advantage of right to title regulation is its simplicity. Many Interviewees who had experience with social worker regulation in other jurisdictions noted the ease with which right to title provisions can be explained and enforced. Enforcement under exclusive scope of practice systems can be difficult, particularly in a profession like social work in which the professional responsibilities have some overlap with other health professions. Even under systems that have scope of practice or controlled acts restrictions, prosecutions often proceed on the basis of the violation of right to title provisions, because they are the easiest to prove.

The significant disadvantage to a right to title system, which was mentioned by several Interviewees who work in jurisdictions with right to title systems, is that it cannot provide comprehensive standards and protection to public because it is easier for employees and employers to opt out of using the restricted title.

### **C. Scope of Practice Models**

An exclusive scope of practice exists where only those individuals who are members of the social work regulatory body are permitted by legislation to engage in the practice of social work.<sup>13</sup> Although the exclusive scope of practice model has been dominant in the historical evolution of health profession regulation, health professions have been moving more toward right to title or controlled acts systems. The reasons generally given for this movement include:

- The exclusive scope model is insufficiently risk sensitive;
- The exclusive scope model unnecessarily restricts the supply of professionals (which is of particular relevance in the NWT, where recruiting is perpetually a concern);
- The exclusive scope of practice limits consumer choice and freedom;
- Exclusive scopes of practice are static and politically difficult to change once granted.<sup>14</sup>

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<sup>13</sup> Casey and Picherak, *supra*, at VI. 74

<sup>14</sup> Casey, *Status Report, supra*, as referenced in Casey and Picherak, *supra*.

All of the Interviewees agreed that an exclusive scope of practice model can be difficult to accomplish given the broad range of activities that fall within the practice of social work, and the number of health professionals that may also perform aspects of social workers' responsibilities. However, it is achievable with a broad and meaningful definition of social work practice. In legislative models that restrict the practice of social work, statutory exemptions of other health professionals and others must be included so that the legislation does not apply to too broad a spectrum of service providers.

The application of an exclusive scope of practice model may be particularly difficult in the NWT. The small number of social workers spread out over a large geographical area might make it difficult to restrict the practice of social work to registered professionals. Many aboriginal communities have traditional ways of addressing societal discord, and many functions of elders and other aboriginal advisors would be those traditionally considered to be social work. Of course, aboriginal leaders or elders could be an exemption from the application of exclusive scope of practice (see the Alberta legislation's exemption for an example in Appendix A).

#### **D. Controlled Acts**

A controlled acts system can work in conjunction with either a right to title system or an exclusive scope of practice system. The Alberta regulatory system includes what seems to be the only controlled act in regard to social workers (see section of Appendix A on Alberta legislation), which is the act of "psychosocial intervention." This system allows exclusivity of the performance of a certain type of action, which is easier to define and enforce than the exclusivity of an entire field of practice.

The controlled acts model identifies the professional activities that perform the greatest risk to the public if incompetently performed, and allows their performance only by educated and skilled professional.<sup>15</sup>

Controlled acts models are usually tied to restricted titles, and in some cases a specially designated title. They are also usually broad regulatory systems, spanning multiple professions. A controlled acts system usually starts with a broad analysis of the activities of health professionals, then determines which of the activities pose the most risk to the public, and then controls only those acts. Rarely are controlled acts systems formed for only one health profession.

#### **E. Social Work Defined**

***Question for Consultation:*** is it necessary to include a definition in the legislation and if so which definition of social work is most appropriate for the NWT?

Most Interviewees felt that, under any system of regulation, a comprehensive definition would be useful, not only to determine the practice areas of social workers (if necessary

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<sup>15</sup> Casey and Picherak, *supra*, at VI.74.

for another provision in the legislation) but also to serve as an educational tool for the public. However, practice definitions in professional regulatory legislation are usually related to other provisions in the legislation, in particular where the professional's activities are restricted, or where the professional performs a unique role within the context of the legislative scheme (e.g., as a complaints investigator).

Some examples of definitions are listed below.<sup>16</sup>

From the Canadian Association of Schools of Social Work and the International Federation of Social Workers:

The social work profession promotes social change, problem solving and human relationships and the empowerment and liberation of people to enhance well-being. Utilizing theories of human behaviour and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work.

From the Canadian Association of Social Work:

Social work is a profession concerned with helping individuals, families, groups and communities to enhance their individual and collective well-being. It aims to help people develop their skills and their ability to use their own resources and those of the community to resolve problems. Social work is concerned with individual and personal problems but also with broader social issues such as poverty, unemployment and domestic violence.

Human rights and social justice are the philosophical underpinnings of social work practice. The uniqueness of social work practice is in the blend of some particular values, knowledge and skills, including the use of relationship as the basis of all interventions and respect for the client's choice and involvement.

In a socio-political-economic context which increasingly generates insecurity and social tensions, social workers play an important and essential role.

From Newfoundland's *Social Workers Association Act*.<sup>17</sup>

"Social work" means the assessment, remediation and prevention of psycho-social problems and the enhancement of the social, psycho-social functioning and well being of individuals, families, groups and communities by

- (i) providing direct counseling and therapy services to a client,

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<sup>16</sup> Please note that all the statutory definitions in Canada are listed here. The other jurisdictions do not include a definition of social worker at all in their legislation. This reinforces the consideration that a general definition, while helpful to contextualize the practice of social workers, is not strictly necessary for professional regulatory legislation.

<sup>17</sup> *Social Workers Association Act*, S.N.L. 1992, c. S-18.1, s. 2.

- (ii) developing, promoting and delivering human service programs, including those done in association with other professions, and conducting applied social research.

From the *Act to Incorporate the New Brunswick Association of Social Workers*:

“practice of social work” includes the assessment, remediation and prevention of social problems, and the enhancement of social functioning of individuals, families, groups and communities by means of

- (a) the provision of direct counseling services within an established relationship between a social worker and client;
- (b) the development, promotion and delivery of human service programs, including that done in collaboration with other professionals;
- (c) the development and promotion of social policies aimed at improving social conditions and promoting social equality; and any other activities consistent with the objects of the Association;<sup>18</sup>

From Prince Edward Island’s *Social Work Act*:

“Social work” means service that is performed, for remuneration or in a continual way and without immediate supervision, to aid clients to understand and resolve personal, family or social problems, in ways which, in the judgment of the Board as supported by the common opinion among social-work educators, authorities and practitioners, require expert and comprehensive knowledge, skills, judgment and ethical conduct of a distinctly professional nature as provided for in education at a university school of social work.<sup>19</sup>

From Nova Scotia’s *Social Workers Act*:

For the purpose of this Act, the practice of social work is the assessment, remediation and prevention of social problems and the enhancement of social functioning of individuals, families, groups and communities by means of

- (a) the provision of direct counseling services within an established relationship between a social worker and a client;
- (b) the development, promotion and delivery of human-service programs; or
- (c) the development and promotion of social policies aimed at improving social conditions and promoting social equality, including that done in collaboration with communities,

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<sup>18</sup> *Act to Incorporate the New Brunswick Association of Social Workers, supra*, s. 2.

<sup>19</sup> *Social Work Act*, R.S.P.E.I. 1988, c. S-5, s. 1.

and which requires the application of specialized knowledge, values and skills in the field of social work.<sup>20</sup>

The choice of definition is driven in part by the regulatory model chosen. For instance, a more precise definition would be helpful if the legislation created exclusive practice areas or controlled acts. Systems that enforce only restricted titles, rather than the practice of social work, do not have as urgent a need for a definition to be contained in the legislation.

## F. Registration Qualifications

**Question for Consultation:** what should be the registration qualifications to be a registered social worker in the NWT?

### Rationale for Educational and Experiential Minimums

Typically, the legislation governing professional organizations contain provisions regarding the required qualifications a candidate must possess to be permitted to practise. The qualifications can be set in the statute, the regulations, or by the regulatory body itself. The standard set is enforceable whether under statute, regulation or policy; the differences lie in the ease with which the standard can be changed. Statutory provisions are usually the most difficult to change.

The public interest in a basic standard for professional registration qualifications has been expressed as follows:

The public has a genuine and very real interest in knowing that the members of the self-governing bodies are properly trained and have good ethical standards. The technical nature of the services performed by the members of such bodies makes it very difficult for the layman to assess the competence of the practitioner and gauge the value of the services he has received. The public must be able to rely on the judgment of those who are empowered to decide that persons licensed to practise a profession or engage in a self-governing occupation are qualified. That being so, the responsible and experienced members of a profession or occupation on whom the power of self-government is conferred should be in the best position to set the standards to be met and the qualifications of anyone who aspires to enter the profession or occupation.<sup>21</sup>

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<sup>20</sup> Social Workers Act, S.N.S. 1993, c. 12, s. 5(2).

<sup>21</sup> Ontario, *Royal Commission Inquiry into Civil Rights (Report No. 1, Volume 3)* Commissioner: James Chalmer McRuer (Toronto: Queen's Printer, 1968-1971) 1172 cited in James T. Casey, *The Regulation of Professions in Canada* (Toronto: Thomson Carswell, 2003) at 16-1.

### Minimal Educational Requirements

A number of social worker regulatory bodies in Canada state the educational requirements as being a minimum of a bachelor's degree from a social work program accredited through the Canadian Association of Schools of Social Work. That association currently accredits social work programs at the following institutions:

Lakehead University	St-Thomas University
King's University College	Université de Sherbrooke
University College of the Fraser Valley	Ryerson University
Renison College (University of Waterloo)	First Nations University of Canada
Université du Québec à Chicoutimi	University of Regina
Carleton University	Université d'Ottawa
University of Calgary	University of Northern British Columbia
University of British Columbia Okanagan	Nicola Valley Institute of Technology
University of British Columbia	Université du Québec à Montréal
Université du Québec en Outaouais	Dalhousie University
Université Laval	University of Toronto
University of Manitoba	University of Victoria
Wilfrid Laurier University	McMaster University
University of Windsor	Memorial University of Newfoundland
York University	Université de Moncton
Laurentian University	Université du Québec en Abitibi-Témiscamingue
Université Laurentienne	
Thompson Rivers University	Université de Montréal
	McGill University

Two Canadian jurisdictions currently register social workers who do not hold bachelor degrees: Alberta and Ontario.

Alberta registers social workers who hold diplomas from a recognized social work program without differentiating their registration status from those who hold a bachelor degrees. The benefits to this system include the ability to register more people working in the field, and therefore hold them accountable to many of the same standards of practice and codes of ethics as bachelor degree holders. This system also allows community colleges to present their educational programs as ones likely to result in gainful

employment for their students. The risk, of course, is that diploma holders do not have the same educational background or competence as bachelor degree holders. While some of the education can be developed through working in the field of social work, some Interviewees expressed the concern that the theoretical underpinnings of social work cannot be gained through either a two year diploma program or work experience. Also, this system makes inter-jurisdictional transferability difficult, since registrars in provinces with bachelor degree minimums cannot be certain that social workers holding Alberta registrations have the same educational backgrounds as they require.

Ontario registers social workers who hold diplomas as “social services workers”, which allows them to be differentiated from social workers. This system has the same advantages as the Alberta system in that it increases the number of eligible registrants, holds them accountable to the same standards of practice and codes of ethics, and allows diploma programs to offer their students broader career alternatives. The difficulty with this program is that it is the only jurisdiction that has a differentiated registration system for diploma holders, and increases the College’s administrative tasks. The College also must expend much effort educating the public and other health care professionals on the differences between social workers and social services workers. The differentiation is not apparent to many, and indeed even the statutory differentiation sheds little light on the practical differences, particularly to laymen (see the Ontario legislation section in Appendix A).

### **Equivalency Assessments**

Most social work legislative schemes include provisions for equivalent qualifications to be considered in lieu of the specified minimums. This allows social workers from other countries and backgrounds to be eligible for registration, an objective generally approved by all the Interviewees.

The difficulties arise in measuring the competence and experience fairly. Substantial equivalency programs come in several forms that range in complexity and cost: exams only, combinations of interviews, demonstrations and exams, and individual assessments of past work experience. Some Interviewees held the view that substantial equivalency programs, while desirable in theory, are in practice overly cumbersome, difficult and expensive.

A number of regulatory bodies across the country rely on the Canadian Association of Social Workers (CASW) to assess international qualifications to determine the equivalency of their qualifications with Canadian levels of social work education. This centralized service improves the consistency of recognition for internationally-trained social workers. Currently, only British Columbia and Quebec perform their own international equivalency assessments.

### **Experiential Requirements**

The Interviewees acknowledged that a certain amount of work experience is required before a social worker is recognized as having sufficient competence to be registered. Some legislative schemes require a certain number of hours spent practicing social work

outside of an educational program. Most jurisdictions simply rely on the educational program to provide the practical skills development, since social work programs contain a practicum component.

### **Registration Qualifications in the NWT**

The most common educational minimum for registration, a bachelor's degree in social work, may be more difficult to implement in the NWT than in other jurisdictions.

A recent survey regarding worker safety in the NWT (which, as of April 2007, has not yet been released) determined that 39% of the current social workers do not hold bachelor degrees or higher. The study found that 22% hold diplomas, 8% hold certificates, and 9% have degrees in other areas of study.

The study also points out that currently 24.4% of the NWT social work workforce is aged 51 years and older. It is expected that by the time any legislation is brought in at least 6% of the workforce will have retired.

Furthermore, the lack of any bachelor's program in the NWT makes that level of education difficult for people to achieve. As well the NWT experiences difficulty in recruiting in a range of health professions.

Establishing the minimum educational requirement could be the most difficult decision associated with the development of social worker legislation, because a fine balance must be kept between protecting the public through regulation, and serving the public through ready recruitment of professionals.

### **Grandparenting Provisions**

One way to alleviate immediate concerns over the establishment of educational minimums is to include a grandparenting provision in the social work legislation. Grandparenting provisions would allow those practising in the NWT to be exempt either permanently or temporarily from the educational registration qualifications. Grandparenting provisions allow flexibility for the workforce when new professional regulatory legislation is being introduced, so that under-qualified people with jobs are not put into a difficult position. Grandparenting provisions do require additional administrative attention during the transition from being non-regulated, to assess who qualifies for the provision.

The main types of grandparenting provisions to consider are the following:

#### **Automatic Registration**

Social workers working in the NWT at the time the legislation comes into force could be exempt from the regular registration qualifications. This would relieve current NWT social workers who do not hold the required qualifications from their fears that they would have to make drastic changes in their careers. Newcomers to the NWT or to the profession in

the NWT would be educated to expect that the minimum qualifications in social work are required, much as they would expect minimal standards to practise as a registered nurse, doctor, or pharmacist.

This type of grandparenting provision would be the simplest to administer, though it would not be free of complications. The regulatory body would still face the challenge of assessing who falls within the provision. For example, the provision could stipulate that all those working for six months or longer in a social worker capacity can be automatically registered. The regulatory body would still be required to assess whether the applicant had indeed worked for six months, and assess whether the work had been in a social worker capacity. Other complications could include appeals from those whose qualifications fall short of the cut-off, and those who apply for exemption outside the allowed time (because usually grandparenting provisions are time-limited, or only permitted within a year or two of the statute coming into force).

The impact on employers would not be high for this type of grandparenting provision. They would not have to develop any policies for the educational upgrading of their workforce, and their employees could continue in their positions. Employers would have to be educated about the legislation, so they know how it affects their future hiring practices.

The key drawback in an automatic registration system is that it fails to achieve a standard level of educational and/or experiential competence, which results in potential risk for the public. Additionally, automatic registration may lessen the value of registration in both social workers' and the public's views. It could take decades before everyone practicing social work or having the title of social worker would have the same minimum qualifications.

### **Grace Period for Qualification Eligibility**

This type of grandparenting provision would allow social workers who do not hold the minimum qualifications for registration to have provisional registration. The provisional status would last for a certain period of time during which they would be expected to achieve the minimum qualifications.

Newfoundland and Labrador had a lengthy provisional registration period after the introduction of their social worker legislation, in which under-qualified registrants had seven years during which they were able to attain the minimum qualifications (which was a bachelor's degree). This allowed social workers to attain the minimum levels while still working, if they so chose.

Having a grace period for achieving the minimum level of qualifications creates much administrative work: to ascertain who qualifies for the provisional status, to re-process registrations when provisional registrants achieve the minimum, and to revoke the registration of those who do not achieve the minimum standard by the end of the provisional period.

Employers have a much bigger role to play with a grandparenting provision that provides a grace period for minimum registration qualifications. Employers must either support the efforts of their employees to achieve the minimum standard, or risk losing them from their positions. Employers may support their employees by offering time off, time off with pay, leaves of absence, financial support for registering in or traveling to educational programs, or reduced hours. Support of this kind would be critical for those working in the NWT, particularly if the legislation requires a minimum bachelor's degree. Even if the minimum education were a diploma, however, this would continue to be difficult for those living outside Yellowknife.

The main advantage of a grace period type of grandparenting provision is that under-qualified social workers are able to attain the required qualifications without losing their jobs, thus achieving a standard of qualifications across the territory without jeopardizing the public's interest in basic professional standards.

Grandparenting provisions as a whole are more urgently required where the legislation limits the ability to practise without being registered. In jurisdictions that only limit the right to title, other options are available for those who do not meet the registration qualifications. They simply do not use the title of social worker, or whatever other title is protected. The impact on employers and unions in this scenario may be significant, particularly in work areas where social workers are commonly recognized as such. To change a person's job title, and differentiate them from their colleagues, would create a series of managerial issues, including pay scales, job responsibility definition, and recruiting.

### **G. Categories of Registration**

Most jurisdictions with social worker legislation in Canada have several categories of registration. More categories allow flexibility for registrants. For instance, a non-practising category of registration enables registrants to maintain their registration while they do something other than social work, though they may plan to return to practice.

Administrative complexity is the main reason to limit categories of registration. The Registrar must ensure that all registrants' statuses are kept up-to-date, and multiple categories of registration result in more changes between them. Returning to regular registration may require re-applying to some extent.

The number of categories of registration, and their characteristics, will be ultimately driven by the requirements of the chosen legislative model. Registration categories could include any of the following:

- Regular
- Non-practising
- Provisional (if there is a grandparenting clause or grace period)
- Candidate (for use while the applicant is acquiring the required experience, or while the registration application is being considered by the regulatory body)
- Temporary (for those in the jurisdiction on a temporary basis)
- Academic (for those teaching or researching, but not practising social work)

Another form of multiple categories is the system in Ontario, which registers social workers and social service workers.<sup>22</sup> Ontario is the only jurisdiction in Canada that has two distinct registration levels.

#### **H. Continuing Competence**

***Question for Consultation:*** does the NWT want to include a specific, legislated requirement for continuing competence or the power for the regulatory body to require continuing competence?

Most reviewed legislation contains the power for regulatory bodies to implement a continuing competence requirement for registrants, which may or may not include a quality assurance component.<sup>23</sup> The usual legislative model is to include the power and purpose to create continuing competence programs in the regulatory body or professional association, but leave the details of the requirements to the regulatory body itself.

Ontario's College of Social Workers, for instance, is currently reviewing their options for including a specified continuing competence mechanism in their registration programs, but it has not yet been implemented. This process is being done without any changes to the legislation, as the power to do so is already contained in the statute. The College is simply now reaching the point in its operation at which it can consider this administrative addition.

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<sup>22</sup> See section IV(B)(5) above for details regarding Ontario's Legislation.

<sup>23</sup> See, for example, the Social Workers Act, S.N.S. 1993, c. 12, s. 5, which lists as one of the objects of the Nova Scotia Association of Social Workers to "improve and increase the knowledge, efficiency and ability of its members to encourage and promote on-going professional development."

Professionals generally recognize their practices demand currency in skills, theories, developments and trends in their profession. The imposition of requirements to maintain a certain level of competence throughout a career varies.

The issues concerning a continuing competence component in the regulation are similar to those for minimum registration qualifications. More involved and complicated systems may lead to greater responsibility and ability of professionals, but can become large administrative tasks if precise requirements are implemented. A simple and non-directive approach to continuing competence may entail less administrative complexity, but risks that certain registrants fall below a standard level of competence and thus become a risk to the public. Many regulatory bodies address continuing competence issues through their standards of conduct.<sup>24</sup> Others require a certain amount of annual professional education and skills assessment.

For instance, the New Brunswick Association of Social Workers has adopted the following policy for its members' Continuing Professional Education (CPE) (note, credits are the rough equivalent of one hour of continuing education activity):

2.1(A) Employed members of the NBASW are required to complete a minimum of forty (40) CPE credits per year.

2.1(B) Members working on a part-time basis, defined as being between fifteen hours and a full-time work week, or more than three months full-time but less than six months per year are required to complete twenty (20) CPE credits.

2.1(C) Unemployed members, members who are working between one and fifteen hours per week, and those working less than three months per year are required to complete ten (10) CPE credits per year.

2.1(D) Members who are away from their regular workplace for less than one year for reasons of sickness or maternity leave are required to complete three (3) CPE credits for each month worked within that year.

2.1(E) Upon written request to the NBASW and with written authorization from the Association, members may be considered exempt from this policy for reasons of extended illness.

Alberta requires similar levels of program credits towards continuing competence of social workers, but its requirements are contained in the regulation.<sup>25</sup> Continuing competence programs like the above often depend on registrants' self-reporting at the time of their membership or registration renewal.

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<sup>24</sup> See for instance the Alberta College of Social Workers' Code of Ethics, s. 3, which requires social workers to declare "I will be competent in the performance of the services and functions I undertake on behalf of the persons I serve." The associated commentary in the Code of Ethics describes the range of knowledge and skills that define competence in social work.

<sup>25</sup> *Social Workers Profession Regulation*, A.R. 82/2003, s. 14.

Opportunities for continuing competence involve the employer, though most professional regulatory bodies and members hold the view that professional obligations are the sole responsibility of the professional, not their employer. Professional regulation does not hold employers accountable if their employees fall short of current standards of practice. The extent to which employers support, encourage and fund continuing competence opportunities and assessments (outside their own workplace monitoring and assessment mechanisms) reflects their general desirability as employers.

### **I. Structure of the Professional and/or Regulatory Organization**

***Question for Consultation:*** if social workers are regulated in the NWT, who should administer their legislation?

Professional regulatory legislation devolves certain powers to a regulatory body to enforce the other powers in the statute and regulations, and create policies by which the profession will be administered. The regulatory body thus becomes a “statutory body” which can exercise only those powers explicitly devolved to it by the legislation. A regulatory body that operates outside its statutorily granted powers is subject to a court’s intervention.

The main options available in the NWT for the structure of the professional and regulatory organization:

- The HSS performs registrar functions and makes all decisions with respect to registration.
- The HSS provides administration support but an independent committee makes decisions with respect to registration. The committee has representation from the profession, HSS and the public. This is the model used by the medical profession. This option may be the most likely, given the low numbers of social workers in the NWT. HSS currently provides professional registration services to 12 professions that are governed by 11 different acts. Certain economies of scale are achieved by having a centralized health professions licensing office though it means that the administration staff have less profession-specific knowledge and experience.
- Self-regulating profession. This would be difficult to achieve given the low numbers of social workers in the NWT. The social workers would all have disproportionately heavy obligations to the regulatory body compared to the social workers in other jurisdictions. They may also have much higher annual fees to

cover the administration of the organization. The only health profession currently self-governed in the NWT is nursing.<sup>26</sup>

- Hybrid Model: the self-regulating professional model is combined with the professional association into one organization.

If the latter regulatory structure were chosen, and the professional association played a part in the registration of social workers, ASWNC would be required to undergo substantial changes to ensure it met the requirements of the legislation, and remained the professional association for all three territories. The GNWT has authority only over the regulatory body that registers those working in the NWT. Accordingly, the activities of the regulatory body would remain specific to members who practised in the NWT, whereas the association's membership and activities would span all three territories.

For further information on a professional association and regulatory body that spans multiple territories, go to [www.rnantnu.ca](http://www.rnantnu.ca), which is the website for the Registered Nurses Association of Northwest Territories and Nunavut. The two territories arranged to proclaim the latest versions of their nursing regulatory legislation on the same day to facilitate the combined self-governance of professionals in two territories.

The budgets and finances of self-regulating professions versus governmental regulatory bodies are beyond the scope of this paper. The membership numbers and fees available for the other self-regulating organizations in the country are set out in Appendix A, so a rudimentary comparison may be made on that basis. Suffice it to say that the NWT has the fewest number of social workers compared to all other jurisdictions with a self-governing social worker body. At least one Interviewee estimated that a minimum professional population of approximately 2,000 members would be necessary for a self-governing body to run efficiently. Therefore, if a self-governing model were chosen in the NWT, it would likely require very costly registration and renewal fees to be paid by its members.

## J. Professional Discipline

There are well-developed standard discipline processes in legislation across Canada and in the newer NWT statutes such as the *Pharmacy Act*.<sup>27</sup>

***Question for Consultation:*** Is there any reason why a discipline process modeled on the *Pharmacy Act* could not be suitable for the social work profession?

For a description of the *Pharmacy Act* process, see Appendix C. To review the legislation, see <http://www.justice.gov.nt.ca/PDF/ACTS/Pharmacy.pdf>.

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<sup>26</sup> See the *Nursing Profession Act*, S.N.W.T. 2003, c.15.

<sup>27</sup> *Pharmacy Act*, R.S.N.W.T. 1988, c. P-6.

The offence and disciplinary structures that could effectively be put to use in the NWT include the following, specific examples of which are noted in the provincial legislative reviews in Appendix A, and in the review of the *Pharmacy Act* disciplinary process in Appendix C:

### **1. Complaint Process**

The first point of contact for people bringing complaints against registrants is usually the director of the college or a complaints committee. The first step is to determine if the complaint falls within the jurisdiction of the regulatory body. In other words, the complaints must be against a member of the regulatory body, and must allege facts that, if true, could form the basis of an offence under the legislation (e.g., professional misconduct).

### **2. Alternate Dispute Resolution**

Modern professional statutes provide a mediation option to determine if the concerns can be appropriately addressed without a hearing.

### **3. Investigation Process**

This is the fact gathering stage of the disciplinary process. After a decision-maker determines that the complaint merits investigation, an investigator is typically appointed to interview the parties and witnesses, and review any relevant documentation. Typically, the investigator's findings return to the statutory decision-maker, who determines whether the complaint should proceed to the next step or be dismissed.

### **4. Hearing Process**

Because of issues of procedural fairness and the requirement for legislative sanction of the actions of the regulatory body, the hearing process is often a lengthy portion of the regulatory legislation. The kinds of details usually included in this section of the legislation are the following:

- Powers to require the attendance of witnesses.
- Requirements to provide notice to parties and witnesses of hearing dates, decisions, and other matters.
- Format required for disciplinary decisions.
- Deadlines for referring matters to hearing (e.g., within a certain period of time after the submission of an investigatory report).
- Rights and obligations of witnesses in a hearing.

- Rules for public or private hearings.
- Powers to sanction the registrant, and order the payment of costs.

## **5. Appeals Process**

Generally professional regulatory legislation includes rights to appeal to court or to an appeals committee within the regulatory structure. Within the structure of the regulatory body, appeals can take the form of asking a decision-maker to reconsider, or in the case of more serious decisions, asking an appeals committee to overturn the result of a hearing. Appeals to a court are always available, though if a statutory appeal has not been explored first, the court may decline to hear the matter until the statutory regime has been fully exhausted.

### **Issues of Note with Regard to Professional Discipline**

A review of the professional discipline mechanisms currently put to use in the country shows a rough pyramid of plentiful complaints, fewer investigations, and fewer still disciplinary hearings. Each step gets progressively more time-consuming and expensive for regulatory bodies, whether or not they employ staff or outside counsel to assist. The design of the statutory disciplinary process must include the ability to settle the matter at each significant stage of the process, without abridging the right to fairness of either the complainant or the registrant.

Most Interviewees were very supportive of the inclusion of alternative dispute mechanisms for settling complaints, though very few had participated in any. One Interviewee noted that in her jurisdiction, the social workers viewed participation in alternative dispute mechanisms as an admission of guilt rather than as a forum to express and reconcile different interests. Education in alternative dispute mechanisms could help to alleviate this preconception. What may also be helpful is to include the alternative dispute mechanisms in the early stages of a complaint before it enters the formalized process.

One Interviewee cautioned against statutory compositions of committees that were overly rigid in a jurisdiction with a small population. She has had difficulties arranging full disciplinary hearing panels due to the potential conflicts of interest of the panel members. The professionals often have the same employer, or have worked together in the past, or may already be assigned to other disciplinary committees. For instance, a complaints committee and hearing panel should be comprised of different individuals. The Registrar of the regulatory body requires some flexibility to be able to empanel a hearing relatively quickly, given the interests at stake for both the social worker and the complainant.

## **VI. SUMMARY AND NEXT STEPS**

In assessing the various options for the regulation of social work in the NWT, it must be appreciated that no “correct” answer exists.

In summary, the following are the Questions for Consultation that are posed throughout this paper:

1. Which regulatory model(s) will suit the NWT best?
2. Is it necessary to include a definition in the legislation and if so which definition of social work is most appropriate for the NWT?
3. What should be the registration qualifications to be a registered social worker in the NWT?
4. Does the NWT want to include a specific, legislated requirement for continuing competence or the power for the regulatory body to require continuing competence?
5. If social workers are regulated in the NWT, who should administer their legislation?
6. Is there any reason why one of the standard discipline processes such as one modeled on the *Pharmacy Act* would not be suitable for the social work profession?

The models all have benefits and drawbacks, as does the introduction of regulatory legislation generally. The most appropriate model for the NWT will emerge after broad consultations with the stakeholders.

### ***NEXT STEPS***

The GNWT will organize consultation sessions to take place in the NWT in the coming months. For details on the consultation sessions, and to forward any written responses to this paper, please contact the following:

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Policy, Legislation and Communications  
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The web-sites for the Department of Health and Social Services ([http://www.hlthss.gov.nt.ca/Features/Programs\\_and\\_Services/professional\\_licensing/social\\_workers.asp](http://www.hlthss.gov.nt.ca/Features/Programs_and_Services/professional_licensing/social_workers.asp)) and the Association of Social Workers in Northern Canada ([www.socialworknorth.com](http://www.socialworknorth.com)) include further information on the consultation process and time-frames for providing written responses to this paper.

## VII. APPENDIX A – SOCIAL WORK LEGISLATION IN THE PROVINCES

### 1. British Columbia

#### Overview of British Columbia’s Regulatory Framework

In British Columbia, social worker regulation is contained in the *Social Workers Act*<sup>28</sup> (*SWA*).

The minimum registration qualifications to be a registered social worker in B.C. are not set in the regulations, but are set by the Board of Registration for Social Workers in B.C., the body that is governed by the *SWA*. The qualifications required are as follows:

- B.S.W., M.S.W., or Ph.D. in social work
- A degree that is deemed to be equivalent (same content, different name)
- A bachelor's degree in a related field and a combination of knowledge, skills, and abilities which are substantially equivalent to a social work degree.

The *SWA* protects the right to use the title of “social worker” or “Registered Social Worker” or “RSW”, but there are significant exceptions (see below).

#### Right to Title in British Columbia

The *SWA* protects the right to use the title “Registered Social Worker” and requires that those working as a social worker are registered with the Board of Registration for Social Workers in B.C. Registration is required for those calling themselves a social worker, unless they are working for any of the following:

- government;
- a government agency;
- a municipality;
- a regional district;
- a hospital district board;
- a board of school trustees;
- an Indian band;
- a tribal council;
- the Nisga’a Nation or Nisga’a Village; or

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<sup>28</sup> *Social Workers Act*, R.S.B.C. 1996, c. 432

- certain societies with special legislative approval.

They are also not required to register if they are teaching or researching social work under an academic appointment or program in a university, college or institute.<sup>29</sup> This means that the majority of social workers who are required to be registered under the *SWA* work for non-profit agencies or in the private sector.

### **Non-Exclusive Scope of Practice in British Columbia**

The legislation in British Columbia does not make the practice of social work exclusive or restrict any related activities. The legislation also does not define social work. It merely prevents any non-registrants from representing themselves as social workers, unless they work for one of the exempted employers.

### **Membership of the College in British Columbia**

Registrants of the Board of Registration for Social Workers of British Columbia may be registered as practicing, non-practising or limited registrants. Non-practising registrants may retain that status for a maximum of five years, and must re-apply to become a full member. The re-application from non-practising status is not the same application process as for those applying for registration initially. Limited registrants are those near completion of registration requirements and who have extensive experience in the role of a social worker.

Voluntary registration is available for specialized “clinical registration”. The requirements for this unique designation are as follows:

- (a) a master's degree or doctoral degree in social work approved by the Board, or until June 30, 2007, a bachelor's degree in social work and a master's degree in the field of counselling, approved by the Board;
- (b) a course of study in clinical content areas;
- (c) completion of the clinical exam of the Association of Social Work Boards;
- (d) 3000 hours of supervised clinical experience after obtaining degree;
- (e) 3 references regarding the applicant's clinical practice;

New applicants for regular or clinical registration must pay \$100 to apply, and \$230 annually for registration fees. A private practice roster is maintained, for which registrants pay \$100 to have their names listed, if qualified. Approximately 180 registrants are currently listed on the private practice roster.

The professional association in B.C. is separate from the regulatory body. The professional association is the BC Association of Social Workers (BCASW), which is a

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<sup>29</sup> *Social Workers Act*, R.S.B.C. 1996, c. 432, s. 8(1).

voluntary, not-for-profit association that organizes professional development events, mentoring programs, and group liability insurance, and publishes a code of ethics and practice standards. The cost to join the BCASW is as follows:

Full Time	\$288
Part Time	\$150
Not Employed	\$114
Retired	\$114
Student	\$66
New Graduate – Full Time	\$168
New Graduate – Part Time	\$90
Recent Graduate – Full Time	\$228
Recent Graduate – Part Time	\$120
Thirty Year Retired	\$66
Associate	\$114

### **Discipline Process in British Columbia**

The *SWA* creates a board that is given the power to create a discipline process, find members guilty of misconduct and incompetence, and impose penalties such as the suspension, cancellation, or limitation of their registration status.

Complaints made to the registrar are forwarded to an inquiry committee, which will investigate complaints or through its own motion investigate one of the following:

- (a) a contravention of the *SWA* or the rules made pursuant to the *SWA*;
- (b) a failure to comply with a limit or condition imposed under the *SWA* or the rules made pursuant to the *SWA*;
- (c) professional misconduct;
- (d) competence to practice social work;
- (e) a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practice social work.

The inquiry committee may dismiss the complaint or issue a citation for incompetent conduct or misconduct. The citation may refer the matter to a hearing or the inquiry committee may ask a registrant to consent to remedial action, which may include one or more of the following:

- (a) undertake not to repeat the conduct to which the matter relates;
- (b) undertake to take educational courses specified by the inquiry committee;
- (c) consent to a reprimand;

(d) undertake or consent to any other action specified by the inquiry committee.

If the registrant refuses to consent to the remedial action, the inquiry committee may refer the matter to a hearing. Hearing panels consist of three members of the board, and no member of the hearing panel can also be a member of the inquiry committee that dealt with the same matter.

The inquiry committee can recommend mediation in circumstances where a citation is not warranted, and where the complainant and registrant agree to mediate.

The rules made pursuant to the SWA are extensive, and include definitions of misconduct and incompetence.

Appeals of the board's decisions are not handled internally, but per the *SWA* can be made to the Supreme Court of B.C. within thirty days of the decision. Also available through the courts is injunctive relief; if the board applies and demonstrates to the courts there is reason to believe someone is representing him or herself as being a social worker without the proper registration, an injunction may be granted to restrain the person from contravening the *SWA*.

## 2. Alberta

### Overview of Alberta's Regulatory Framework

In Alberta, social workers are regulated pursuant to the *Health Professions Act*<sup>30</sup> (*HPA*), which is the regulatory instrument of thirty separate health-related professions. Under the *HPA*, the objectives of the Alberta College of Social Workers (ACSW), which also serves as the professional association, are as follows:

- to serve and protect the public interest;
- to provide direction and to regulate the profession;
- to establish, maintain and enforce standards for registration, continuing competence and standards of practice;
- to establish, maintain and enforce a code of ethics; and
- to approve educational programs for registration purposes.

The legislation mandates the registration of social workers holding a diploma or bachelor's of social work. The legislation also mandates that practising social workers who are able to register must do so. The following is the provision requiring registration, which also applies to the other professions regulated under the *Health Professions Act*:

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<sup>30</sup> *Health Professions Act*, R.S.A. 2000, c. H-7.

- 46(1) A person must apply for registration if the person
- (a) is qualified to meet the requirements of section 28(2) for registration as a regulated member, and
  - (b) intends to provide one or more of the following:
    - (i) professional services directly to the public;
    - ...
    - (iv) the teaching of the practice of a regulated profession to regulated members or students of the regulated profession;
    - (v) the supervision of regulated members who provide professional services to the public.
- (2) If a registrar is of the opinion that a person who is not a regulated member meets or may meet the requirements of subsection (1)(a) with respect to the college and provides any services described in subsection (1)(b), the registrar may give that person a written request to apply for registration.
- (3) A person who receives a request under subsection (2) must give a complete application for registration, except for the application fee, to the registrar within 30 days after receiving the request, however, the application fee must be paid prior to registration.
- (4) This section does not apply to a person who is
- (a) a regulated member of another college,
  - (b) a student of a regulated profession,
  - (c) authorized to provide services referred to in subsection (1) pursuant to another enactment, or
  - (d) qualified to be registered as an emergency medical responder and
    - (i) who is not primarily employed to provide health services but while employed, or
    - (ii) who provides volunteer services other than services as an ambulance attendant and, while providing those services, provides health services to another person.

Registered social workers have exclusive right to title. The scope of practice defined is non-exclusive, and some controlled acts are defined. Controlled acts are those that fall under “psychosocial intervention”, defined under the *Government Organization Act*<sup>31</sup> as follows:

To perform a psychosocial intervention with an expectation of treating a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs

- (i) judgment,

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<sup>31</sup> *Government Organization Act*, R.S.A. 2000, c. G-10, Schedule 7.1, s. 2(1)(p).

- (ii) behaviour,
- (iii) capacity to recognize reality, or
- (iv) ability to meet the ordinary demands of life;

Registered social workers must apply to the College for authorization to perform psychosocial intervention, and must demonstrate that they have specialized training in the following: mental health disorders and impairments in social functioning; ethics; and, assessments in the context of mental health disorders. A significant exception exists in the context of the controlled acts: regulated members are permitted to provide psychosocial intervention using traditional aboriginal practices if the member has received training in those practices and has been recognized by an aboriginal community as being competent in the use of those practices.<sup>32</sup>

### **Right to Title in Alberta**

Under the legislation, registered social workers have the right to the exclusive use of the following titles:

- social worker;
- registered social worker;
- S.W.;
- R.S.W.;
- Soc. Wkr.

The title of “clinical social worker” may be used by regulated social workers if they have:

- a master’s degree in social work from an approved university;
- been registered for two or more years (in Alberta or equivalent jurisdiction);
- two years of post-masters degree clinical work experience that includes 1600 client contact hours under supervision;
- successfully completed a written exam on clinical social work practice;
- two letters of reference from appropriate provider of health services who has direct knowledge of the applicant’s practice. One letter must be from a clinical social worker.

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<sup>32</sup> *Social Workers Profession Regulation*, A.R. 82/2003, s. 12.

### **Non-Exclusive Scope of Practice in Alberta**

The non-exclusive scope of practice defined in the legislation is defined as follows, with the stipulation that social workers do one or more of these things:

- (a) enhance or restore the social functioning of individuals, families, groups, organizations and communities by improving developmental, problem-solving and coping capacities of people and systems,
- (b) promote effective and humane systems that provide resources, opportunities and services to people and link people to those systems,
- (c) contribute to the development and improvement of social policy, and
- (d) provide restricted activities authorized by the regulations.<sup>33</sup>

### **Membership of the College in Alberta**

Alberta's mandatory registration is tied to the timing of when people began working as a social worker in Alberta. Anyone who practised as a social worker from 1999 on must be registered, with the exception of exempted professionals (addictions counselors, those involved in Children's Services and social workers on First Nation reserves).

The current membership of the Alberta College of Social Workers is approximately 6,000. Members pay \$75 to apply to be members, and cost of membership is as follows on an annual basis:

Full-time, paid social workers:	\$300
New graduates:	\$200
Inactive members:	\$150
Volunteers:	\$150
Retired:	\$150
Students:	\$65

### **Discipline Process in Alberta**

Complaints and discipline are handled through the College. Complaints are forwarded to the Complaints Director, who decides whether the evidence of wrongdoing is sufficient to proceed. The Complaints Director may order investigation (usually done by specialized registered social workers), refer to alternate dispute resolution, or request an

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<sup>33</sup> *Health Professions Act*, R.S.A. 2000, c. H-7, Schedule 27, s. 3

expert assessment. The member about whom the complaint is lodged is notified of action taken, and may be asked to respond.

After completion of an investigation, the Complaints Director decides whether the evidence is sufficient to warrant the complaint, or dismisses the complaint. If the complaint is dismissed, the Complainant has 30 days to appeal the dismissal. If the evidence is sufficient, the Complaints Director refers the matter to the Hearings Director to have a hearing. Hearing tribunals consist of two registered members and one member of the public. The hearing tribunals have a statutorily designated process, and their decisions may be appealed to an Appeals Council.

Most cases that warrant discipline result in some form of education for the member, be it additional training, supervised work, participation in a program to overcome issues that negatively affect their work, or demonstration of their new skills or knowledge. Social workers are often asked to pay a small portion of the costs to process the complaints hearings. In rare cases a social worker's registration is suspended or canceled.

### **3. Saskatchewan**

#### **Overview of Saskatchewan's Regulatory Framework**

Social workers in Saskatchewan are regulated through the *Social Workers Act*<sup>34</sup> and its associated regulations. Professionals using the title "social workers" are required to register under the legislation.

The minimum educational criteria for registration is a certificate or bachelor's or higher degree in Social Work or Indian Social Work from an approved university. Certificates in Social Work or Indian Social Work are acceptable only if they are issued by the Faculty of Social Work, University of Regina, or by the Northern College where the program was set up by the Faculty of Social Work, University of Regina.

Saskatchewan's *Social Workers Act* came into force in 1993, and it included a grandparenting provision. Anyone who applied for registration within three years of the *Act*'s coming into force, who did not hold the minimum educational criteria but did have five years of social work practise, could be eligible for registration.

#### **Right to Title in Saskatchewan**

No one is entitled to use the titles "Social Worker" or "Registered Social Worker" in Saskatchewan unless they are registered with the Saskatchewan Association of Social Workers (SASW).

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<sup>34</sup> *Social Workers Act*, S.S. 1993, c. S-52.1

### **Non-Exclusive Scope of Practice in Saskatchewan**

Saskatchewan does not have any scope of practice defined in its regulatory system, allowing social workers to not register if they choose not to use the protected title. However, SASW has a Legislative Review Committee that has advocated for a defined scope of practice, and mandatory registration for all social workers in Saskatchewan. In the past year the Committee planned to continue consulting with government representatives, First Nations organizations, and unions to explore all the issues associated with mandatory registration for all those practicing as social workers.

### **Membership of the Association in Saskatchewan**

SASW acts as the professional association and regulatory body for social workers in Saskatchewan. Approximately 1100 social workers are registered with the SASW (including non-practising members, and excluding student members).

Membership categories, for the purposes of the professional association, include full-time, part-time, non-practising and associate. The latter category is not for registered social workers, but is for individuals who share the goals of the association and want to receive publications.

The 2007 fee schedule for the association (and registration, if applicable) is as follows:

Full-time	\$620.00
Part-time (<20hrs per week)	\$380.00
Non-practising	\$82.00
Associate	\$70.00
Student	\$69.00

### **Discipline Process in Saskatchewan**

Complaints about social workers in Saskatchewan are submitted to SASW's Professional Conduct Committee. The Professional Conduct Committee consists of at least three registered social workers who have received special training for this task and are selected for their skill in a particular field or for their generally recognized expertise.

Once the Professional Conduct Committee confirms that the subject of the complaint is a registered social worker, the Committee proceeds to review the complaint and, if within its jurisdiction, investigate the matter. With the consent of the complainant, a copy of the written complaint will be forwarded to the member who is the subject of the complaint. The member is given 30 days to respond.

If the Professional Conduct Committee determines the evidence demonstrates the registered social worker has made an error or acted in a manner that caused harm to a

client or the standing of the profession generally, the matter will be referred for mediation with consent of both parties OR referred to the Discipline Committee.

When the complaint is referred to the Discipline Committee, the Committee holds a hearing. The parties at the hearing are:

- the registered social worker member
- members of the Discipline Committee
- legal counsel for the discipline Committee
- Legal counsel for the registered social worker

The Discipline Committee has five members, four of whom are registered social workers and members of the Discipline Resource Pool. The fifth member is a public representative, appointed by the Lieutenant Governor, and is not a social worker.

The Committee considers the relevant facts of the matter and determines if the member is guilty of incompetence, misconduct, conduct unbecoming or in violation of the Code of Ethics.

If the Committee finds that the allegations have been proved in whole or in part, it may impose one or more of the following sanctions:

- revoke the member's right to practice;
- suspend the member's right to practice for a limited period of time;
- impose undertakings, conditions and limitations on the member's right to practice;
- reprimand or counsel the member;
- revoke or suspend the member's right to practice in their specialty;
- impose a fine;
- publish the order of the Committee in the official publication of the Association and other provincial newspapers;
- fix the costs of the proceedings to be paid by the member.

In 2005, SASW received 5 new complaints, two of which remained open by the end of the year, and none of which had been referred to a disciplinary hearing.

#### 4. Manitoba

##### Overview of Manitoba's Regulatory Framework

The Manitoba legislation is non-mandatory and was enacted in 1966. The Manitoba Association of Social Workers (MASW) and the Manitoba Institute of Registered Social Workers (MIRSW) work in conjunction with each other and have done so since 1990. The former is the professional body and the latter is the regulatory body, responsible for certifying members and protecting the public through recognized, ethical standards of practice.

Committees of the professional organizations have been lobbying for several years for legislation that requires the registration of social workers. So far, none has been passed.

##### Membership of the MASW and MIRSW in Manitoba

The fee structure for joining one or both organizations is as follows:

Category	MASW	MIRSW	Joint
Employed, full time	\$250.00	\$280.00	\$280.0
Employed, part-time	\$150.00	\$250.00	\$250.00
Retired and non-practicing	\$100.00	\$100.00	\$155.00
Unemployed, or returned to full time study	\$50.00	\$100.00	\$100.00
Social Work Students (full time)	\$35.00	N/A	N/A

Approximately 800 social workers are members of either MASW or MIRSW (80% are joint members), out of approximately 3000 social workers in the province.

Much of the organization's work is accomplished through the volunteer board or volunteer committees. Only two part-time staff positions run both organizations on a day-to-day basis.

##### Discipline Process in Manitoba

The MIRSW processed 5 complaints in 2005, three of which continued through the investigation stage.

The MIRSWS Complaints Committee has the responsibility to investigate all inquiries into unprofessional conduct by a member of MIRSWS. Committee members review the complaints and determine whether further investigation is needed.

The Discipline Committee consists of MIRSWS Board members and lay community representatives. The Committee reviews complaints and works to resolve them either by informal action, such as education, or formal action, such as correction or disciplinary action against the MIRSWS member which is then made public.

## 5. Ontario

### Overview of Ontario's Regulatory Framework

Ontario's social workers are governed by the *Social Work and Social Service Work Act*<sup>35</sup> and associated regulations.

Registration with the Ontario College of Social Workers and Social Services Workers ("OCSW") is required for any person in Ontario who wishes to use the titles "social worker", "social service worker", "registered social worker" or "registered social service worker."

OCSW registration is required if a person represents or holds out expressly or by implication that he or she is a social worker or a social service worker or a registered social worker or a registered social service worker. Membership in the OCSW is also required in order for a social worker to perform specific functions under the *Health Care Consent Act* and the *Substitute Decisions Act*.

Registration with the OCSW is open to graduates or students of Canadian university social work education programs accredited by the Canadian Association of Schools of Social Work and graduates of other university social work programs recognized as equivalent. Applicants must live, work or study in Ontario at the time of application.

The following are qualifications recognized by OASW:

- (a) A Canadian university degree from a program that has been accredited or is a candidate for accreditation by the Canadian Association of Schools of Social Work (CASSW).
- (b) A United States university qualification from a program that is accredited at the time of graduation by the Council on Social Work Education.
- (c) A qualification from outside Canada or the United States that has been evaluated as equivalent to the Canadian bachelor's, master's or doctoral degree in social work by the Canadian Association of Social Workers (CASW).

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<sup>35</sup> *Social Work and Social Service Work Act*, S.O. 1998, c. 31.

The Ontario Association of Social Workers (OASW) is the professional association of social workers, and is a voluntary non-profit association that is not governed by the regulatory legislation.

### **Right to Title in Ontario**

The legislation in Ontario restricts the titles of “social worker”, “registered social worker”, “social services worker”, and “registered social services worker” for use by only those registered. The legislation also forbids anyone who is not registered from representing or holding out either expressly or by implication that he or she is a social worker or registered social worker. The inclusion of this latter restriction makes this form of right to title system broader, and applicable to more people, than a right to title system that only forbids the specific titles. However, it is usually more difficult for regulatory bodies to enforce the “holding out” provisions than the use of title provisions.

### **Non-Exclusive Scope of Practice in Ontario**

Ontario does not have any scope of practice defined or restricted in its regulatory system, allowing individuals not to register if they choose not to use the protected titles or hold themselves out as social workers or social services workers.

The differentiation between the scopes of practice between social workers and social services workers in Ontario is narrow, and although the College in Ontario is generally pleased with having two levels of registration, it causes many inquiries from the public. The scopes of practice are defined in the College’s Code of Ethics. For social workers, the scope of practice is as follows (with differentiations from the scope for social services workers underlined):

The scope of practice of the profession of social work means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal problems through the use of social work knowledge, skills, interventions and strategies, to assist individuals, dyads, families, groups, organizations and communities to achieve optimum psychosocial and social functioning and includes, without limiting the generality of the foregoing, the following:

- (i) The provision of assessment, diagnostic, treatment and evaluation services within a relationship between a social worker and a client;
- (ii) The development, promotion, management, administration, delivery and evaluation of human service programs, including that done in collaboration with other professionals;
- (iii) The provision of professional supervision to a social worker, social work student or other supervisee;
- (iv) The provision of consultation services to other social workers or professionals in relation to the activities described in paragraph (i) above;
- (v) The development, promotion, implementation and evaluation of social policies aimed at improving social conditions and equality;

- (vi) The conduct of research or provision of education regarding the practice of social work, as defined in paragraphs (i) to (v) above and (vii) below; and
- (vii) Any other activities recognized by the College.

The scope of practice for social services workers is as follows (with differentiations from the scope for social workers underlined):

The scope of practice of the profession of social service work means the assessment, treatment and evaluation of individual, interpersonal and societal problems through the use of social service work knowledge, skills, interventions and strategies, to assist individuals, dyads, families, groups, organizations and communities to achieve optimum social functioning and includes, without limiting the generality of the foregoing, the following:

- (i) The provision of assessment, treatment and evaluation services within a relationship between a social service worker and a client;
- (ii) The development, promotion, management, administration, delivery and evaluation of human service programs, including that done in collaboration with other professionals;
- (iii) The provision of professional supervision to a social service worker, social service work student or other supervisee;
- (iv) The provision of consultation services to other social service workers or professionals in relation to the activities described in paragraph (i) above;
- (v) The development, promotion, implementation and evaluation of social policies aimed at improving social conditions and equality;
- (vi) The conduct of research or provision of education regarding the practice of social service work, as defined in paragraphs (i) to (v) above and (vii) below; and
- (vii) Any other activities recognized by the College.

### **Controlled Acts in Ontario**

Social workers in Ontario have no Controlled Act model in place. Currently (April 2007), however, Ontario has a bill before its legislature that introduces some Controlled Acts for psychotherapy services through amendments to Ontario's *Health System Improvements Act*. The College in Ontario is currently engaged in communication with officials at the Ministry of Health and Long-Term Care and the Ministry of Community and Social Services to secure an amendment to Bill 171 to provide authorization for social workers to perform the Controlled Act of psychotherapy. This will ensure that social workers are treated no differently than members of the regulated health professions who are authorized to provide psychotherapy services under Bill 171.

## **Membership of the College & Association in Ontario**

### **College**

Unlike many jurisdictions in Canada, Ontario has separate organizations for its professional association and regulatory organization. This reflects the fact that Ontario is the most populous jurisdiction in Canada and has 11,000 members of the OCSW alone.

Registrants with the OCSW pay an annual fee of \$340 plus a non-refundable application fee of \$75. New graduates (those who apply for registration in the College on or before December 31st of the year in which they graduate from a social work or social service work program), the registration fee is \$240 and will be pro-rated quarterly. Additionally, the annual fee for these new graduate members in the two subsequent years of their membership will be \$240.

### **Association**

The OASW has approximately 3,400 members or roughly one-third of the OCSW. Applicants to the OASW may apply for membership in one of two categories: professional or student.

The fees for membership are as follows:

- |   |          |
|---|----------|
| • Employed full-time more than 24 hours per week                | \$305.00 |
| • Employed part-time 10-24 hours per week                       | \$199.00 |
| • New graduate 2nd year - within 24 months following graduation | \$199.00 |
| • New graduate 1st year - within 12 months following graduation | \$155.00 |
| • Unemployed or employed less than 10 hours per week            | \$99.00  |
| • Retired - permanently retired from all employment             | \$99.00  |
| • Student pursuing first degree in social work                  | \$95.00  |
| • Student pursuing further degree and unemployed                | \$95.00  |

### **Discipline Process in Ontario**

The OCSW receives approximately 100 complaints per year, but only a few proceed to disciplinary hearings.

Generally, once a written complaint is received, the individual who made the complaint can expect to receive a letter from the College acknowledging receipt of the complaint and advising of the process that will follow.

The member complained against is notified in writing of the College's receipt of a complaint and is provided with a copy of the complaint or a written summary of the complaint and at least 35 days to provide the College with a written response to the complaint.

The individual who made the complaint is then provided with a copy of the member's response or a written summary of the member's response and an opportunity to provide the College with any new information or clarification concerning the response submitted by the member complained against.

The Complaints Committee can do one of the following:

- Refer the matter to the Discipline Committee of the College.
- Refer the matter to the Fitness to Practise Committee of the College.
- Direct that the matter not be referred to the Discipline Committee or the Fitness to Practise Committee.
- Require the member complained against to appear before the Complaints Committee to be cautioned.
- Take any action the Complaints Committee considers appropriate in the circumstances consistent with the *Act*, the regulations or the bylaws.

The duties of the Discipline Committee are to:

- hear and determine allegations of professional misconduct or incompetence on the part of a member of the College directed or referred to it by the Complaints Committee, the Council, or the Executive Committee; and
- perform any other duties assigned to it by the Council.

Generally, Discipline hearings are open to the public, however, the Discipline Committee may order that the hearing be closed. If the Discipline Committee finds a member guilty of professional misconduct or to be incompetent, it will make an order to do one or more of the following:

- Direct the Registrar to revoke any certificate of registration held by the member under the *Act*.
- Direct the Registrar to suspend any certificate of registration held by the member under the *Act* for a specified period, not exceeding 24 months.
- Direct the Registrar to impose specified terms, conditions or limitations on any certificate of registration held by the member under the *Act*.
- Direct that the imposition of a penalty be postponed for a specified period and not be imposed if specified terms are met within that period.

In addition to the above orders, if the Discipline Committee finds a member guilty of professional misconduct, the Discipline Committee may also make an order:

- Requiring that the member be reprimanded, admonished or counselled by the Committee or its delegate and, if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register for a specified or unlimited period.
- Imposing a fine up to a maximum of \$5,000 to be paid by the member to the Minister of Finance for payment into the Consolidated Revenue Fund.
- Directing that the finding and the order of the Committee be published in the official publication of the College and in any other manner or medium considered appropriate.
- Fixing costs to be paid by the member.

The Ontario legislation does not include an internal appeal process. Instead, it specifies that appeals may be made by the parties to the Ontario Divisional Court. This appeals process is also called “judicial review”.

## 6. New Brunswick

### Overview of New Brunswick’s Regulatory Framework

Social workers in New Brunswick are governed by the *New Brunswick Association of Social Workers Act*.<sup>36</sup> The New Brunswick Association of Social Workers (NBASW) oversees the regulation of social work in that province, and acts as the professional association. Registration with the NBASW is mandatory for anyone who:

- practices as a social worker,
- uses the title of social worker or registered social worker, or makes use of any abbreviation of such title, or any name, title or designation which may lead to the belief that the person is a social worker,
- advertises or in any way or by any means holds himself out as a social worker , or
- acts or holds himself out in such manner as to lead to the belief that he is authorized to fill the office of or to act as a social worker

### Right to Title in New Brunswick

One must be registered with the NBASW in order to use the title “social worker” in the province of New Brunswick. The governing legislation defines a social worker as follows:

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<sup>36</sup> *New Brunswick Association of Social Workers Act*, S.N.B. 1988, c. 78.

“social worker” means any person registered under this Act to practice social work in the Province of New Brunswick.

### **Scope of Practice in New Brunswick**

One must be registered with the NBASW in order to practise social work in the province of New Brunswick. In the governing legislation, “practice of social work” is defined as follows:

“practice of social work” includes the assessment, remediation and prevention of social problems, and the enhancement of social functioning of individuals, families, groups and communities by means of

- (d) the provision of direct counseling services within an established relationship between a social worker and client;
- (e) the development, promotion and delivery of human service programs, including that done in collaboration with other professionals;
- (f) the development and promotion of social policies aimed at improving social conditions and promoting social equality; and
- (g) any other activities consistent with the objects of the Association;

The governing legislation forbids non-registered persons from practicing social work through the following clause:

18(1) Except as provided in this Act, the by-laws or rules, no person shall practice social work in New Brunswick, either privately or employed by another, unless registered to practice under the provisions of this Act and by-laws.

### **Membership of the Association in New Brunswick**

The membership of the NBASW numbers over 1400. Of those, over 1300 are regular members; 64 were non-employed; 33 were retired; 20 were out-of-province; and 6 were life time members.

### **Discipline Process in New Brunswick**

A Complaints Committee considers and investigates all complaints, after which time it may or may not direct the matter to be referred to the Discipline Committee, direct the matter

The governing legislation outlines the discipline process, including a strict composition of both the Complaints Committee and the Discipline Committee. The former must comprise one member of the board, and two other members of the NBASW who are appointed as the Board. All three members constitute quorum, and only two alternates are named. These restrictions have created difficulties in the past because of conflicts of interest.

In 2006, 11 new complaints were received by the NBASW and 7 were carried over from the previous year. Of those complaints, 7 were closed at the complaints level, and 5 were sent to the Discipline Committee. The Discipline Committee of the NBASW has had one or two disciplinary hearings during each of the past several years.

## **7. Nova Scotia**

### **Overview of Nova Scotia's Regulatory Framework**

The Nova Scotia Association of Social Workers (NSASW) is both the professional association and regulatory body for social workers in that province, and is governed by the provisions of the *Social Workers Act*.<sup>37</sup> Individuals calling themselves social workers, and individuals practising social work are required to register with the NSASW. Applicants for registration must hold a degree in social work. Nova Scotia allows interprovincial transfers; if a social worker with valid registration arrives to practice in Nova Scotia, the NSASW will recognize their registration. The NSASW also has an equivalency process, whereby individuals who have experience in social work but insufficient educational background can apply to have their work experience be considered for registration.

### **Right to Title in Nova Scotia**

The Nova Scotia legislation restricts the use of the following titles or any derivative abbreviations of them:

- Social Worker
- Registered Social Worker

### **Scope of Practice in Nova Scotia**

The scope of practice is defined as follows in the Nova Scotia legislation:

For the purpose of this Act, the practice of social work is the assessment, remediation and prevention of social problems and the enhancement of social functioning of individuals, families, groups and communities by means of

(a) the provision of direct counseling services within an established relationship between a social worker and a client;

(b) the development, promotion and delivery of human-service programs; or

(c) the development and promotion of social policies aimed at improving social conditions and promoting social equality, including that done in collaboration with communities,

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<sup>37</sup> *Social Workers Act*, S.N.S. 1993, c. 12.

and which requires the application of specialized knowledge, values and skills in the field of social work.<sup>38</sup>

Because the model of regulation is broad in Nova Scotia, encompassing all those who practise social work and use the title of social worker, the legislation includes many exemptions from its application so that professionals doing social work functions do not run afoul of its provisions. Those exemptions are:

- nurses
- teachers
- psychologists
- any other provincially regulated professional
- clergy
- volunteers
- anyone under the direct supervision of a social worker
- paid employees of a volunteer agency, as long as the activities are related to the objects of the agency.

### **Discipline Process in Nova Scotia**

After a complaint is submitted in writing and the Complaints Committee confirms that the person is a Registered Social Worker or a Social Worker Candidate, the Committee proceeds to review the complaint and investigate the matter.

The complainant is contacted and informed of the Complaints Committee's decision to either not investigate if the complaint is not within the jurisdiction of the *Social Workers Act* to investigate, or if the complaint is one that can be investigated. A copy of the written complaint is forwarded to the member who is complained against and the member is given at least three weeks to respond. Correspondence from the member and complainant is disclosed to each other.

The Complaints Committee can offer the parties the option of mediation to attempt to resolve the complaint. If both parties are willing to mediate, and if mediation resolves the complaint, the matter is closed.

If the Complaints Committee investigates and determines that the facts as alleged, if shown to be true, would constitute a violation of the *Social Workers Act* or the Code of Ethics, the Complaints Committee may direct that the matter be dealt with under section 29(2) of the *Social Workers Act* in the following manner:

- dismiss the complaint;
- attempt to resolve the matter informally;

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<sup>38</sup> Social Workers Act, S.N.S. 1993, c. 12, s. 5(2).

- with the consent of both parties, refer the matter, in whole or in part, for mediation;
- counsel the social worker or social worker candidate;
- reprimand the social worker or social worker candidate, with that person's consent;
- with the consent of the social worker or social worker candidate, require that person to undergo such treatment or re-education as the Committee considers necessary;
- refer the matter, in whole or in part, to the Discipline Committee.

The Complaints Committee will give its decision in writing to the Registrar, including reasons for the decision. The Registrar will deliver or send to the complainant and to the member of the Association complained against, a copy of the written decision of the Committee and its reasons (section 29(4) of the *Act*).

When the complaint is referred to the Discipline Committee, the Committee holds a hearing. The parties at the hearing are:

- the member
- the Board

The member is notified in writing of the time and place for the hearing as well as the specific allegations with which the member is charged.

If the Committee finds that the allegations have been proved in whole or in part, it may find that the member is guilty of incompetence, misconduct, conduct unbecoming or a violation of the Code of Ethics and impose one or more of the following sanctions:

- revoke the member's right to practice
- suspend the member's right to practice for a limited period of time
- impose undertakings, conditions and limitations on the member's right to practice
- reprimand or counsel the member
- revoke or suspend the member's right to practice in their specialty
- impose a fine
- repay or reduce the fees charged by the member
- publish the order of the Committee in the official publication of the Association

- fix the costs of the proceedings to be paid by the member

Appeals from Discipline Committee decisions are not internal to the NSASW, but rather are available to the member complained against on points of law at the Nova Scotia Court of Appeal.

## 8. Prince Edward Island

### Overview of Prince Edward Island's Regulatory Framework

The *Social Work Act*<sup>39</sup> of Prince Edward Island (PEI) regulates the activities of the Prince Edward Island Association of Social Workers (PEIASW), which functions primarily as a professional association and has some control and input into the Board that functions as the regulatory body. Registration is required by all those practising social work in PEI, and the title of social worker is restricted.

The grandparenting provision in the PEI legislation (which came into force in 1988) allowed association members with sufficient experience to register, notwithstanding the requirements of a degree. If applicants did not have sufficient experience, they had four years to meet the training and other requirements and remain registered throughout that time.

### Right to Title in Prince Edward Island

The only restricted title in PEI is social worker, but the offence provision that enforces the right to title is broad enough to incorporate any derivative thereof:

No person shall practise social work or attempt to act as, assume the title or designation of or otherwise purport to be or perform the professional functions of a social worker unless he holds a valid certificate of registration.<sup>40</sup>

### Scope of Practice in Prince Edward Island

Social work is defined as follows in PEI:

“Social work” means service that is performed, for remuneration or in a continual way and without immediate supervision, to aid clients to understand and resolve personal, family or social problems, in ways which, in the judgment of the Board as supported by the common opinion among social-work educators, authorities and practitioners, require expert and comprehensive knowledge, skills, judgment and ethical conduct of a distinctly professional nature as provided for in education at a university school of social work.<sup>41</sup>

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<sup>39</sup> *Social Work Act*, R.S.P.E.I. 1988, c. S-5.

<sup>40</sup> *Social Work Act*, R.S.P.E.I. 1988, c. S-5, s. 15.

<sup>41</sup> *Social Work Act*, R.S.P.E.I. 1988, c. S-5, s. 1.

Exemptions from the application of this exclusive scope of practice includes social work functions performed by an aide or technician working under the supervision of a registered social worker. Also exempted are any other provincially regulated professional, or anyone else the College's board chooses to recognize.

### **Membership of the Association in Prince Edward Island**

Although it is the least populous jurisdiction in Canada, P.E.I. has separate organizations for its social worker regulatory body and its professional association, though the association plays a significant role in forming the regulatory body. The regulatory body is the Prince Edward Island Social Work Registration Board (the "Board"). The professional association is the Prince Edward Island Association of Social Workers (the "Association").

The Board is a separate corporate body from the Association, and is comprised of only five members. All five members are nominated by the Association and appointed by the P.E.I. Minister of Social Services. Four of the five members must be registered social workers and members of the Association, and the fifth member is not a social worker and must represent the perspective of the general public.

The Board is responsible to do the following<sup>42</sup>:

- prescribe initial and continuing educational, proficiency and other qualifications for registration, including fees;
- examine applicants and judge entitlement to registration;
- issue certificates of registration and keep the official register of them;
- assure adherence to established ethical guidelines;
- prescribe standards of practice;
- investigate complaints and exercise discipline pursuant to complaints.

It should be noted that the Board has the power to make regulations under the legislation, but must do so only after consulting the Association.

### **Discipline Process in Prince Edward Island**

The legislative provisions relating to discipline are not contained in the PEI statute, but rather are contained in the associated regulations.<sup>43</sup> In brief, the regulations stipulate the following:

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<sup>42</sup> *Social Work Act*, R.S.P.E.I. 1988, c. S-5, s. 7(2).

<sup>43</sup> *Standards and Regulations*, P.E.I. Reg. EC69/92.

- Written complaints are automatically referred to an Inquiry Panel, after the notification of the Committee on Standards and Discipline.
- Inquiry Panels comprise three registered social workers, a member of the general public, and any other person the Committee chairperson considers necessary.
- The Inquiry Panel determines if a complaint should proceed to a detailed inquiry, and will notify the complainant and the social worker of its decision.
- The Inquiry Panel can recommend that a matter proceed to mediation at any stage.
- Detailed inquiries are performed by the Inquiry Panel.
- The Board of the Association decides if, based on the findings of the Inquiry Panel, the matter should proceed to a full investigation and hearing.
- If the matter proceeds to a hearing, the Board makes all the procedural and evidentiary rules governing the hearing.
- Disciplinary measures of the Board, in the case of a complaint proven against the social worker, can include:
  - an oral or written reprimand;
  - direction that the person fulfill a continuing education requirement;
  - direction that the person fulfill a rehabilitative treatment program;
  - a term or condition imposed on the certification limiting the scope or independence of practice;
  - suspension of the certification for a fixed period of time or until a condition has been fulfilled;
  - revocation of certification
  - order to pay costs.
- Appeals can be made to court.

## 9. Newfoundland & Labrador

### Overview of Newfoundland & Labrador's Regulatory Framework

Social workers in Newfoundland and Labrador are regulated through the *Social Workers Association Act*.<sup>44</sup> The Newfoundland and Labrador Association of Social Workers (NLASW) is the self-governing regulatory body and professional association established under the legislation.

In Newfoundland and Labrador, only those registered with the NLASW can practice social work or use the title of social worker. Registration requires a Bachelor's, Master's or Doctorate degree in Social Work from a social work program accredited by the Canadian Association of Schools of Social Work (CASSW) or an international equivalent as determined by the Canadian Association of Social Workers (CASW) Equivalency Process.

The legislation governing social workers was introduced in 1992, and included a grandparenting provision in which, for a period of one year following the legislation's enactment, everyone who had been employed as a social worker for two years immediately prior to the legislation's coming into force, could register as a social worker even if they lacked the minimum educational requirement.

The legislation has exceptions contained in s. 3, which states:

3(1) This Act does not apply to

- (a) a student in the course of his or her being employed or supervised and controlled by a social worker;
- (b) the clergy; and
- (c) the rights, powers or privileges held by a person under another Act or under a registration or licence granted under that Act.

The section above goes on to state that while the legislation is binding on provincial government employees, the Minister may exempt certain employees by order.

### Right to Title in Newfoundland & Labrador

Social workers registered with the NLASW are entitled to use the following titles:

- social worker
- registered social worker
- R.S.W.

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<sup>44</sup> *Social Workers Association Act*, S.N.L. 1992, c. S-18.1

Persons with a temporary registration designation are permitted to use the title “registered social worker (temporary)”, a designation that lasts for one year and which can be renewed for a total of no more than seven years.

### **Scope of Practice in Newfoundland & Labrador**

Social work is defined in the *Social Workers Association Act* as follows:

2. (i) “social work” means the assessment, remediation and prevention of psycho-social problems and the enhancement of the social, psycho-social functioning and well being of individuals, families, groups and communities by
  - (iii) providing direct counseling and therapy services to a client,
  - (iv) developing, promoting and delivering human service programs, including those done in association with other professions, and
  - (v) conducting applied social research.

The section of the governing legislation that requires registration by social workers states the following:

17. Every person who

- (a) holds a bachelor, master or doctoral degree or has other, equivalent education in social work from an educational institution approved by the committee of examiners;
- (b) has passed examinations in subjects prescribed by the committee of examiners;
- (c) has completed practical field or other experience considered necessary by the committee of examiners; and
- (d) has paid the fees required by the association

is entitled to be registered as a social worker and to practise social work in the province.

### **Membership of the College in Newfoundland & Labrador**

The NLASW has approximately 1, 120 registrants, all of whom hold at least a Bachelor’s degree in Social Work, and approximately 200 of whom hold Master’s degrees. Registrants are categorized as either regular, non-practising, or temporary. The NLASW’s registrar finds that fewer registration categories simplifies administration issues.

Registrants pay \$50 to apply for registration, and \$275 for annual fees. Non-practising members pay \$100 per year.

### **Discipline Process in Newfoundland & Labrador**

When the NLASW receives a written complaint, the registrar forwards a copy to the social worker for a written response. The response and the statement of complaint are forwarded to the Complaints Committee.

This committee reviews the complaint to determine whether it fits the criteria for unskilled practice or unprofessional conduct.

If the complaint does not fit the criteria, the Registrar informs the complainant that no further action will be taken. This decision to close the case can be appealed to the Board of Directors within 30 days of receiving it from the Registrar.

If the complaint fits the criteria, the Complaints Committee asks the Registrar to organize an investigation. The social worker and the complainant are informed when the investigation begins. Individuals other than the social worker and complainant may be interviewed. All interviews are documented and the results of the investigation are contained in a report which is reviewed by the Complaints Committee.

Upon reviewing the investigation report, the Complaints Committee will make one of the following decisions:

- Dismiss the complaint
- Recommend mediation,
- Refer the complaint for a disciplinary hearing.

Complaints will be dismissed when the evidence of unprofessional practice or unskilled conduct is insufficient. Complaints are also dismissed if they are deemed to be vexatious or frivolous. Complainants have the right to appeal dismissal directly to the NLASW Board of Directors.

Mediation is an attempt to resolve a complaint in a manner that is mutually agreeable to the complainant and the social worker. It is a process, facilitated by an appointed mediator, that must be agreed to by both the complainant and the social worker. If it is not agreed to by the complainant and the social worker, or not successful within 60 days, the complaint is referred to a discipline hearing.

A discipline hearing is convened by a panel of at least three members of the Discipline Committee (which the NLASW likes to keep at around 10 members).

The following are possible outcomes of a hearing:

- Dismissal if the conduct is not in violation of the categories of unskilled practice or unprofessional conduct as outlined in the *Social Workers Association Act*.

- Sanction. Examples of the kinds of actions that can be taken against a social worker if it is found that they have practiced in a manner that is unskilled or unprofessional include:
  - Reprimand.
  - Imposing a fine on the R.S.W.
  - Imposing restrictions on the manner in which the R.S.W. continues to practice.
  - Directing the R.S.W. to pass a specified course of study or otherwise satisfy the board that they can practice competently.
  - Suspending or canceling registration to practice.

In the year 2005-2006, the NLASW received six complaints. Four were dismissed. One dismissal was appealed to the Board of Directors, which affirmed the dismissal. One complaint was sent to a hearing, and one was still under investigation at year's end.

## **VIII. APPENDIX B - AURORA COLLEGE SOCIAL WORK PROGRAM**

The Aurora Academic Calendar lists the following as the objectives for its Social Work Diploma Program:

1. To offer a 66 credit comprehensive series of courses culminating in an Aurora College Diploma in Social Work/Certificate in Social Work from the University of Regina.
2. To provide a sound, basic preparation in counselling skills relevant to the diversity of social work roles and which reflects professional values and ethics.
3. To provide Field Practicum opportunities for the practice of skills and integration of theoretical knowledge.
4. To provide courses in the following subject areas: Sociology, Psychology, English, Northern Studies, Human Relations, Communication and Counselling Skills, Social Work Intervention and Practice Skills, Children's Services and Social Policy.
5. To provide a Northern, multicultural focus to course work and field practica by integrating Northern and traditional knowledge into all Program activities. Northern Social Service personnel and holders of traditional knowledge will provide resources and support for the Program.
6. To have transfer arrangements with University Schools of Social Work and other post secondary institutions.
7. To be of excellent quality.
8. To be consistent with the Strategic Plan, Mission Statement and overall goals and objectives of Aurora College.
9. To provide opportunities for personal development needed to prepare for successful employment in social work fields.
10. For students to develop critical self-reflection and self-evaluation skills and to have an awareness of the impact that personal values, experiences, biases and emotional reactions have on practice.
11. To promote community partnerships in order to enhance mutual understanding, learning and respect in working relationships
12. To promote the profession of Social Work.

The program's curriculum is as follows:

- First Peoples of the NWT
- General Psychology
- Explorations in Social Work
- Personal Development Workshops
- Literature and Composition: Reading Narrative
- Literature and Composition: Reading Culture
- Human Relations
- Communication Skills in Social Work Practice
- Social Work Practice in Child Welfare
- Counselling: Theories & Skills in Social Work
- Culture Camp
- Social Work Practicum I
- Social Work Practice I
- Social Work Practice II
- Contemporary Social Welfare Policy
- Social Work Practicum II

The descriptions of these courses can be found at the following website address:

<http://www.auroracollege.nt.ca/pdf/calendar.pdf>

## **IX. APPENDIX C - PHARMACY ACT DISCIPLINE PROCESS**

The Pharmacy Act, S.N.W.T. 2006, c. 24 contains a series of options for disciplinary sanctions. A pharmacist can be sanctioned for unprofessional conduct, if found to have done one or more of the following (see s. 21(2)):

- (a) engaged in conduct that displays a lack of knowledge, skill or judgment in the practice of pharmacy;
- (b) engaged in conduct that does not comply with standards of practice for the profession of pharmacy;
- (c) engaged in conduct that is detrimental to the best interests of the public;
- (d) engaged in conduct that harms or tends to harm the standing of the profession of pharmacy;
- (e) contravened this Act or the regulations;
- (f) contravened any Act of the Parliament of Canada relating to the compounding, dispensing, sale, supply or distribution of drugs or similar substances;
- (g) engaged in conduct that results in a conviction for an offence of a nature that could affect his or her practice of pharmacy;
- (h) failed or refused to cooperate during the course of an investigation under this Part; or
- (i) failed or refused to comply with a settlement agreement approved under subsection 30(2).

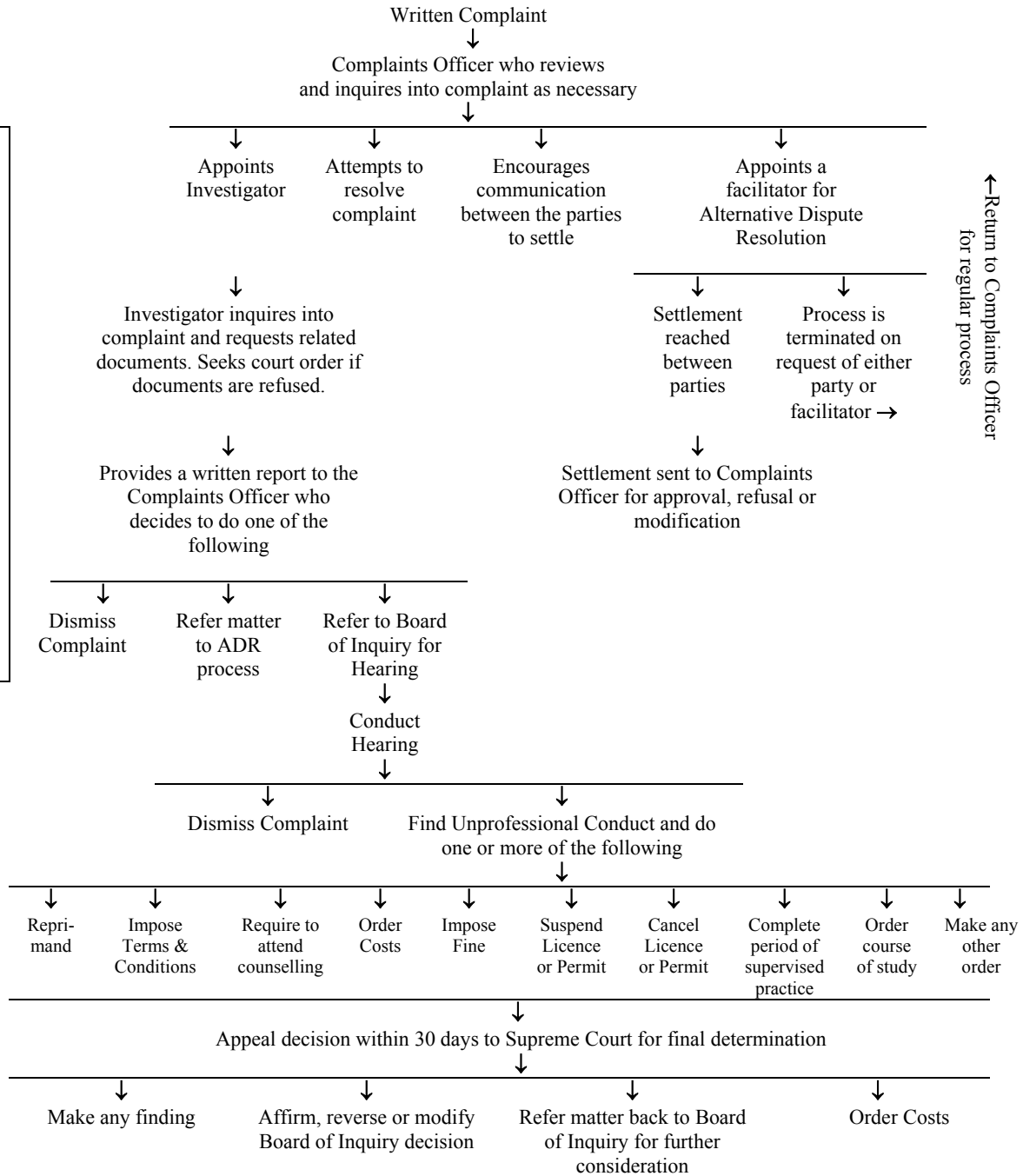
The complaints process under the *Pharmacy Act* starts with the filing of a written complaint with the Complaints Officer, appointed by the Minister under the Act. The process from there is set out in the flowchart below. The full process includes a review by the Complaints Officer, referral to an investigator who produces a written report, referral to a Board of Inquiry which determines whether unprofessional conduct is found.

The Board of Inquiry must be comprised of at least one licensed pharmacist in the NWT, one licensed pharmacist from outside the NWT, and one layperson. Inquiry panels cannot be conducted with fewer than three members.

Complainants and respondents have the right to attend and be heard at the Board of Inquiry hearing. The hearing can proceed without the attendance of the respondent, if the Board of Inquiry is satisfied that the respondent has been properly notified of the hearing. The Board of Inquiry can make its own procedures, and can hear evidence by different means such as telephone, audiovisual means, or any other way it deems appropriate.

Flowchart of the Complaints Process under the *Pharmacy Act* of the NWT.

Any time before a hearing, the Complaints Officer can dismiss a complaint if it is determined to be outside the jurisdiction of the Act, if there is insufficient evidence, or if the complaint is vexatious or frivolous.



At any time until the completion of the discipline process, the Complaints Officer can impose a suspension or terms and conditions on a licence or permit, if the Complaints Officer determines that this is necessary to protect the health or safety of the public. Pharmacists who are subject to suspension or terms and conditions can appeal this decision to the Supreme Court of the NWT.