The Regulator's
Practice

Nova Scotia College of Nursing

Regulatory Impact Assessment Report

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INTRODUCTION

In September 2024, the Nova Scotia College of Nursing (NSCN) retained The Regulator's Practice to complete an independent regulatory impact assessment of its Professional Conduct (PC) processes including: intake, investigations, staff resolutions of complaints, Complaints Committee, and Fitness to Practise. The criteria used to review and assess PC processes were the recently developed NSCN Regulatory Guiding Principles, effective July 23, 2024 (see Appendix A).

Deliverables for this assessment included:

+ Confirming the assessment criteria;

+ Creating a workplan with detailed activities and timelines for the review;

+ Conducting a regulatory impact assessment of PC processes and outcomes, including a randomly selected review of case files, meeting observations and relevant interviews;

+ Facilitating updates with NSCN staff and leadership team; and

+ Developing a final report with relevant findings and recommendations.

APPROACH | Regulatory Impact Assessment

The purpose of the Regulatory Impact Assessment (RIA) is to assess whether Professional Conduct 's (PC) regulatory programs and processes are delivering on the intended outcomes of NSCN's Regulatory Guiding Principles, reflecting the organization's commitment to maintaining public confidence and effective regulatory processes.

Undertaking the RIA is intended to empower the PC team and NSCN to further identify strengths and opportunities for improvement, align resources for their greatest impact, refine approaches to better serve the public, enhance collaboration across NSCN teams and with system partners, in an effort toward further achieving its Regulatory Principles.

It should be noted this proactive assessment reflects the organization's commitment to innovation and quality improvement, in service of effective regulation and the public interest. It was not initiated in response to a crisis or external direction. Engaging in a third-party review of regulatory processes is an emerging best practice, reflecting NSCN's regulatory leadership.

The RIA and its results should be viewed as an important contribution to fostering a culture of continuous improvement, adaptability, right-touch thinking, and enabling the PC team to respond to current demands and anticipate future needs. This is not a compliance exercise or an operational audit.

The next section of the report focuses on key elements of what was found during the assessment of intake, investigations, staff resolutions, Complaints Committee and Fitness to Practise. The report details are structured

under the headings and details of the relevant NSCN Regulatory Guiding Principle: proportionate, consistent, targeted, transparent, accountable, and agile. The information under each heading reflects the evidence and themes that emerged during the assessment and does not capture all the details related to PC processes or speak to all elements of each principle. Each section ends with recommendations which are relevant to the evidence gathered. The recommendations are strategically focused with implications for PC and NSCN operations. Given the integrative nature of the principles, a number of observations and recommendations relevant to one principle may have relevance to other principles. Several of these considerations are noted throughout the report.

WHAT WAS FOUND | Introduction

The PC team is clearly committed to its public interest mandate and highly engaged in its regulatory work. During the assessment, members of the team were open, supportive, and generous with information and insights. While the RIA focused on PC processes, other leaders and team members within NSCN were also supportive and generous with information.

As part of the RIA, we took the opportunity to speak with several external partners. There was a strong consensus that NSCN is a highly respected regulator and health system leader, focused on its public interest mandate, including within its PC processes. There was also feedback that more could be done to improve system partners understanding about PC processes and nurses' experience of these processes, when to engage PC and the College's regulatory role. A key theme that emerged from the feedback with external partners was their limited understanding of the NSCN Regulatory Guiding Principles. There was a concern of possible negative impacts on the wider healthcare system as a result of their implementation, and that changes in PC processes may result in greater burden and responsibility on employers. While this was a general concern, it reflects an apprehension about change (real or perceived) that the College may need to consider.

Throughout the review of randomly selected cases and meeting observations, there appeared to be consistency in the approach with case management and risk assessments. Overall, matters reviewed appeared to have been appropriately assessed, managed, and with reasonable regulatory actions aligned with the Regulatory Principles.

However, while the PC function has many established procedures and practices throughout its processes, it was not always clear what policies or tools were being used to inform assessments and decisions. There appear to be opportunities to enhance consistency and shared understanding across the teams involved, which would strengthen the effectiveness and efficiency of regulatory actions as PC programs and processes continue to achieve the outcomes of the principles.

These points will be explored in greater detail under each of the principles. As mentioned previously, not all details about PC processes are reflected under the principles. Rather the focus of the findings and recommendations are based on the evidence that emerged during the assessment, including case file review, meeting observations and interviews.

NSCN Regulatory Guiding Principles 1 & 2

Proportionate: We only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimized. NSCN interprets this principle as including:

1. **We understand that we cannot eliminate all risk. We direct our resources at matters that pose the greatest risk, having regard to severity and frequency.**

   a. We focus on nurses' practice and client-related conduct in Nova Scotia, as well as issues that raise significant questions about the trustworthiness or integrity of a nurse as a professional.

   b. We make decisions based on the factual information we have, not on speculation or assumptions about what could be.

2. **We seek to manage the risk that a registrant poses to clients or members of the public in the future.**

   a. We look for the causes of, and contributors to, a nurse's conduct. We recognize that issues related to a nurse's competence or health should be treated differently than deliberate or reckless conduct.

   b. Punishment is not the purpose of our regulatory work. We remediate where possible. We also understand that, in appropriate cases, licensing sanctions may be required.

   c. We recognize that it is in the public interest to keep competent nurses in the healthcare system.

+ From a review of the Nursing Act and Nursing Regulations they appear to align with the NSCN Regulatory Guiding Principles, particularly supporting proportionate decision making. There are a range of options for appropriately disposing of a matter throughout the process and it may pass through various stages before it is resolved. Decisions can be made at various points in the process by the Chief Executive (CEO) or staff designate, Complaints Committee, Professional Conduct Committee, Fitness to Practise Committee.

+ The Act gives the CEO and the Complaints Committee a wide range of options in considering a complaint. For example, on receiving the initial complaint, the CEO can: dismiss the complaint, informally resolve the complaint, authorize resignation of the respondent, begin an investigation, refer to Fitness to Practise process. Following an investigation, the CEO can dismiss the complaint, which may include: guidance, informally resolve the complaint, authorize the resignation of the respondent, refer to the Complaints Committee. When a matter is referred, the Complaints Committee also has broad authority when disposing of a complaint and can refer to the Professional Conduct Committee if warranted. During an investigation, the CEO can be directed by the Complaints Committee to impose interim sanctions on the respondent if a respondent is exposing or likely to expose the public, clients, the profession, or the registrant to harm or injury and intervention is required before the matter is

disposed by the Complaints Committee or the Professional Conduct Committee. The range of interim sanctions includes: licence suspension, restrictions, or conditions.

+ Where allegations are proven at a hearing of the Professional Conduct Committee, the panel is given a wide range of powers, including to revoke registration, revoke the respondent's licence or the ability to be licensed, suspend the respondent's licence for a specific period of time, impose restrictions or conditions, reprimand the respondent, direct the respondent to obtain medical treatment, or impose a fine (not exceeding $50,000). There are duties to publish or make public information about registrants, and any conditions, restrictions or licensing sanctions not covered by a publication ban. This provides a statutory basis for sharing information with the public and other audiences, supporting the principles of transparency and accountability.

+ The legislation appears enabling and gives the regulator powers to deliver good regulatory outcomes throughout its process, rather than being restrictive or prescriptive. Evident through the random selection of case files and meeting observations was PC's leveraging the enabling legislation in its risk assessments and proportionate regulatory decision making including the use of dismissals, Informal Resolution's (IR), investigations, Fitness to Practise (FTP), use of conditions and interim suspension. In these instances, actions appeared reasonable and proportionate to the assessed risk of nursing practice or conduct issues.

+ The use of CEO dismissals by PC is robust and appeared appropriate to those issues reviewed during the assessment. Dismissals stand out as a particular example of PC's proportionate regulatory response by not intervening or expending resources on issues that fall outside of the College's mandate or have been addressed through other more appropriate avenues. The additional practice of providing relevant guidance to a nurse as part of a dismissal is further evidence of proportionate regulatory action allowing PC the opportunity to affirm standards of practice and highlight NSCN's guidance for nurses without the need of escalating to more formal and resource intensive regulatory actions.

+ Similarly, the Complaints Committee also has broad authority through the enabling legislation with the ability to take actions depending on the specifics of the matter, including use of dismissals, directing investigations, use of Information Resolutions, and referral to Fitness to Practise. During the evidence gathering phase of the assessment, it appeared committee decisions reflected reasonable assessments of evidence and risk, consistent with the principle.

+ Another example of proportionate regulatory action is PC's use of IR, with its focus on timely regulatory action, appropriate to risk while taking a remedial approach rather than escalating to an investigation, and the demands of additional time and resourcing. Early resolution programs such as IR reflect good regulatory practices and are an essential tool for the efficient and timely address of complaints. Evidence has shown that early resolution processes are viewed more positively by complainants and registrants than investigation processes, due to the focus on remedial learning and practice improvement. These programs tend to be experienced as providing more meaningful engagement for the parties and are

perceived as having positive outcomes compared to other types of decisions such as investigations, which registrants often experience as punishment. Throughout the review selected IRs, these matters appeared to be appropriate to the practice and conduct issues.

+ The PC function has resources that identify what is not appropriate for IR (e.g., sexual abuse, intentional harm), which appropriately reflects the kind of matters that could undermine public confidence/public safety if IR was used. However, the shorter list of what is not appropriate for IR suggests there may be opportunities to widen the range of other kinds of complaint issues that fall below the high-risk threshold and could be considered appropriate for IR. It was not clear if there is documentation that details the kinds of issues that have been assessed as appropriate for IR. This would support consistency of decision making and establish a baseline of case types. Further, it does not appear the PC function is considering expanding the kinds of matters that may be appropriate to address through its proportionate IR process, even though early resolution should be considered a good practice for regulators managing complaints, particularly those involving members of the public and patient's ability to express concerns about direct experiences of nursing practice and conduct.

+ During internal interviews, there were references to not knowing what current evidence supported some regulatory decisions (e.g., terms and conditions, risk assessments). Accordingly, some decisions appear to be based on longstanding established practices, often referred to as 'precedent', instead of current evidence-informed rationale. Though identified as imperfect, it appears reliance on past practice continues without a clear plan for review and update. Past practice is an important input to decision making, however in these instances there appears to be a lack of current evidence that supports decision making practices. This reflects a risk as decisions may appear inconsistent in the absence of current evidence-informed guideposts or decision-making rubrics.

+ There appears to be a gap in the PC function's access and ability to benefit from broader current research and evidence relevant to its processes and policy considerations, notably in supporting evidence informed decision making and the evolving area of Fitness to Practise and how regulators effectively manage these complex processes. The ability to benefit from research and policy resources are essential to good regulation, providing evidence and inputs for policy development, the identification of emerging practices in regulation, evidence informed enhancements to procedures and decision-making tools. The time and competencies required for this type of work can be a challenge for any operational area to support, given the day-to-day demands of regulation. Focused research and policy resources would support gathering and analyzing relevant information on questions and issues strengthening evidence-informed processes, risk assessments and decisions within the PC function.

RECOMMENDATIONS

1. Access to policy and research supports for Professional Conduct.

+ NSCN/PC should create a framework for policy development and research in professional conduct, including:

  + Develop a standardized framework outlining how regulatory policy and research needs are identified, approved, and implemented across the organization.

  + Implement a process where PC sets out policy and research priorities, with priority focus on Fitness to Practise as a key area for review.

  + Introduce a structured review cycle (e.g., every 3-5 years) to ensure PC practices, policies, risk assessment tools and procedures remain current, reflect evolving regulatory standards and patient risk.

2. Expand the Informal Resolution program for complaint management.

+ The PC function should broaden the use of the IR program as a primary response to complaints that cannot be dismissed to efficiently and effectively address nursing issues.

  + Supported by policy and research, review evidence and examples of good practices with early resolution programs to inform opportunities to build on the current IR program.

  + Define suitability criteria to support assessment and decision making.

  + Consider opportunities to collaborate with other NSCN teams, particularly Standards and Guidance, to expand remedial options/actions that further support the IR program (e.g., 1:1 practice consultation, group learning with nurses, use of existing learning tools).

Consistent: We align our rules and standards and implement them fairly. NSCN interprets this principle as including:

3. **We take purposeful steps toward enhancing equity, diversity, inclusion and belonging in and through our regulatory work.**

    a. We recognize that we serve multiple publics with diverse needs and interests that may conflict.

    b. We also recognize that fairness and the effective fulfillment of our role in enhancing equity, diversity, inclusion and belonging may require us to consider an individual's needs and circumstances in determining an appropriate regulatory response, which may result in different actions or outcomes for different individuals within our regulatory framework.

+   While the PC team has several procedures and resources related to its processes, there were instances when it was not clear how information was being assessed or what current evidence or internal tools were used to help inform and articulate the rationale behind a risk assessment and decision. Fairness, consistency and the defensibility of decision making would benefit from using resources and structures that support assessment and decision points. While several relevant tools exist to support assessments (e.g., Informal Resolutions decision tool, Risk Assessment and Early Resolution, ICRC Risk Assessment, Staff Tools for s.62 and s. 63), during the review of cases and meeting observations it was not apparent how these resources are being used within PC processes. To be clear, assessments were happening, however, it was not clear what informed these assessments, appearing to be case-by-case considerations of individual matters. This presents as a risk that processes may appear variable, less evidence informed, or outcomes inconsistent in the absence of guideposts/resources that support consistent assessment and decision making.

+   It is notable that this principle is to be particularly understood through the recognition of serving multiple publics and NSCN's commitment for enhancing equity, diversity, inclusion and belonging (EDIB) through its regulatory work. This commitment is a credit to NSCN and demonstrates its regulatory leadership. During the RIA, information was shared that NSCN has engaged an indigenous consulting group (Balsam) over time and with several initiatives including engagements around the needs of specific PC files.

+   While these examples of engagement deserve acknowledgement, with the focus of this principle in mind, there was limited demonstration of the College's EDIB commitments in the PC processes. For example, during the review of information and meeting observations related to Fitness to Practise, there was consideration of the unique health needs and circumstances of individual nurses, which informed assessments and specific actions including relevant conditions. During a case assessment of a complaint from a member of the public, there was acknowledgement of that person's dissatisfaction with the complaints process. More generally, there were several references in meetings and one-on-

one interviews to the importance of unbiased decision making within PC. Beyond these observations, it was not clear how else EDIB had been integrated into PC processes, tools and decision making.

+ Aligned with a previous recommendation on the benefits of policy and research support for the PC function, a key consideration would be to include incorporating an Equity Impact Assessment (EIA) as a good practice in policy making or guideline development. An EIA is one resource used to evaluate the potential and actual effects of policies and programs on different groups and communities, including the public and nurses. The purpose of the EIA is to identify and address the disparities of processes and programs in advance of any changes that may result in unintended consequences to some groups and communities. This is a critical consideration for any regulatory enforcement process to ensure they do not over identify or burden some groups.

+ Any efforts related to enhancing EDIB within PC process will require relevant data collection, which should include data collection methodologies appropriate to the needs of participants and aligned with good practices including cultural sensitivity and community engagement. Data collection can allow for comprehensive understanding of who is part of the profession and the public, including demographic and geographic information. It enables internal and external trend monitoring such as shifts in the workforce, emerging trends in PC and Standards and Guidance to support targeted responses on shared issues. Data collection can support a clearer picture on those engaging in PC process, providing metrics that may highlight possible barriers and inequities, and support evidence-informed interventions to address challenges. Data collection and analysis is discussed further below under the Accountability principle.

RECOMMENDATIONS

3. Integrate equity, diversity, inclusion, and belonging (EDIB) into Professional Conduct Processes.

+ PC should consider how to further operationalize NSCN's EDIB commitments into its processes, including:

   + Comprehensive Review of Policies and Frameworks: Conduct a review of PC policies, procedures, and decision-making frameworks through an EDIB lens. This review should leverage tools such as Equity Impact Assessments (EIAs) to identify and address potential biases or barriers.

   + Analysis of Public Use and Experience of the Health Care System: Undertake an analysis to better understand how Nova Scotia's diverse publics engage with and experience the health care system, particularly the nursing profession. This will help identify gaps and inform strategies to address disparities.

   + Analysis of the Nursing Profession: Conduct an analysis of the nursing profession within Nova Scotia to understand its composition and diversity. Additionally, examine who in the profession is impacted by PC processes.

   + Consult with external EDIB experts to support any review, ensuring engagements align with cultural safety and humility practices.

NSCN Regulatory Guiding Principles 4, 5 & 6

Targeted: We focus on the problem and minimize side effects. NSCN interprets this principle as including:

4. **We seek to identify the issue before developing a regulatory solution. We are attentive to the outcomes and unintended consequences of the chosen solution.**

   a. When making decisions, we take the surrounding context into account, including the Practise environment.

   b. We strive to understand the impact of our processes and assess whether our work is effective.

   c. We seek to minimize burdens posed by regulation that are not in proportion to the risk.

5. **We work collaboratively to ensure we identify the right problem and solutions.**

   a. We believe that protection of the public in their use of nursing services is a collective responsibility shared by participants in the healthcare system, including individual nurses, nursing employers, and NSCN.

   b. We trust and support the work of other regulators. We strive to work collaboratively on interjurisdictional matters.

   c. Our staff teams recognize the interconnected nature of their work and collaborate to develop consistent and integrated regulatory processes.

   d. We seek to understand the needs and concerns of the publics we serve and welcome their feedback on our performance.

6. **We understand that not all issues require our involvement, and some are better addressed by others with a non-regulatory solution.**

   a. Employers should be the first to manage concerns about a nurse's practice, unless the risk to clients and the public is so serious that we need to take immediate action, the risk continues after an employer has intervened, or the employment relationship has ended.

   b. There are several other forums that may be better suited to a particular issue, including labour processes, a healthcare facility's internal complaints process, Human Rights, Labour Standards, the justice system, or Protection for Persons in Care.

+ Internally and externally, there was shared acknowledgment that the broader healthcare system and the nursing profession are managing greater complexity and patient expectations, increasing the demands on the nursing workforce. There was also recognition that conduct issues among nurses and health needs of nurses are also growing impacting PC's processes and volumes, particularly around Fitness to Practise.

+ An associated theme shared by external partners was that nurse employers are 'risk averse' or have a 'risk averse mindset'. The impact of this is reflected in a strong tendency to report concerns to PC ('better safe than sorry', 'when in doubt, report'), and to not report an issue to the regulator posed a risk to the employer. This mindset was described as a firmly held belief, even in those instances when employers have already taken significant steps to address and remediate performance issues (e.g., learning plans,

performance reviews, extended education). It was evident that system partners appear to view their processes for addressing nursing practice and conduct issues in the workplace as internally focused actions, and therefore it is also necessary to bring the same issues to the regulator's attention.

+ One particular observation was that many new managers (particularly non-nurse managers) lack foundational understanding of the College's role and PC processes, yet these managers are more likely to be the employer representative most frequently engaging PC. The suggestion was that managers are a unique type of stakeholder, and due to their lack of knowledge and risk aversion, may be more likely to report an issue. As one interviewee said, 'If they don't have support, they will report.'

+ The implication of this scenario appears to be that if the College and the PC function does not provide leadership and help employers with their understanding, it can be expected the current default behaviours and risk aversion will continue. This would undermine the vision at the heart of this principle that in many instances an issue is best addressed by the partner nearest to the source of the concern.

+ There was a clear consensus from external partners that nurse employers need help to understand the role of the College, and to better understand their accountabilities including how to engage PC processes (e.g., submitting a report vs. making a complaint). There was also comment that nurses and nurse employers may not be fully aware of the resources NSCN offers that support nurses in their practise and to support employers. This is somewhat surprising given the NSCN website provides access to various resources related to PC processes and Professional Practice including support tools, consultations, education events, and Practice Standards.

+ There appear to be opportunities to better position relevant information to build system partners' understanding of the College's role, processes and resources. This is more likely to benefit from cross organizational collaborations, particularly between PC and Standards and Guidance. Over the course of the assessment there were no observations of engagements between the two teams, though some examples were mentioned in interviews (e.g., support of IRs). Collaborations between teams internally will be a critical success factor to advancing this principle and achieving broader impact on the healthcare system.

+ Some partners mentioned previous meeting opportunities with members of PC staff. The impression was that direct engagement was experienced positively and was a helpful source of information sharing. Other than this general reference to previous meeting opportunities with employers, it was not clear that PC seeks input or feedback from its partners, including how its regulatory processes are understood or engaged. This is considered further under the principle of Accountability and the recommendation for program evaluation that supports the evaluation of PC processes.

+ Some partners were aware the NSCN's work with Right-touch Regulation, along with the development of the guiding principles. While this work was viewed positively, there was a general concern about unintended consequences to the wider system by actions taken within PC processes as a result. Specifically, the concern was that changes to PC functions might result in shifting work and

responsibilities to employers, therefore putting additional strain on an already burdened healthcare system and profession. Ensuring system partners are informed and understand that any changes PC wishes to make to its regulatory processes will be essential to the successful implementation of the principles.

RECOMMENDATIONS

4. Develop a structured strategic engagement framework.

+ NSCN/PC should establish a structured framework to guide collaborations and engagements with partners, including:

    + Partner identification: Map key partners and groups (e.g., regulated professionals, employers, public representatives, indigenous and racial groups) and identify collaboration opportunities, learning, and resource needs.

    + Engagement objectives: Define goals such as clarifying the NSCN/PC's regulatory role, employer learning, enhancing public understanding, and promoting shared accountability for addressing risk in nursing performance.

5. Strengthen cross-department collaboration between Professional Conduct and Standards and Guidance.

+ PC and Standards and Guidance, along with other teams, should build on collaborations that support a strategic engagement framework focusing on proactive outreach to employers, regulated professionals, and other key groups to promote shared understanding of regulatory responsibilities and public protection. This may include:

    + Proactive stakeholder engagement: Jointly develop outreach initiatives, such as information sessions, webinars, and advisory meetings with employers and health system partners, clarifying roles and processes, and highlight relevant NSCN supports and resources.

    + Consistent messaging for engagement: Align strategies between the teams to ensure clear, unified messaging when engaging with partners, particularly around NSCN's regulatory role and team processes, supports, and expectations of partners.

NSCN Regulatory Guiding Principle 7

Transparent: We make ourselves open and accessible and keep regulations simple and user- friendly.
NSCN interprets this principle as including:

7. **People are the focus of our work, and we strive to build and maintain their trust.**

    a.   We listen openly.

    b.   We explain what action we can take and why.

    c.   Information on our processes, standards and ethics is publicly accessible and written in plain language.

    d.   We strive to engage in open decision-making that respects legislative confidentiality requirements and the privacy interests of participants.

+   As mentioned above, a consistent theme identified during the assessment was nurses and employers not fully understanding the role or processes of PC in general, including investigations and Fitness to Practise. During internal and external interviews there was consensus that human resource managed performance issues and inter-personal conflicts between professionals was neither appropriate nor a good use of PC resources It was notable during the assessment that an employer was the complainant in several of the randomly selected case files, who unlike a member of the public, should have less interest in using the confidential complaints process for its own purposes.

+   A few comments made during internal interviews observed that by accepting workplace-related complaints from employers, PC may inadvertently be confirming the view of some external partners that PC processes are available to address personnel issues and workplace conflicts. PC may want to consider how it communicates and manages employer related complaints and if it wishes to discourage employers from this practice while encouraging employer to make reports to PC instead.

+   Patients and family members have a unique and important role in the PC complaints process due to their direct involvement with nursing care. This requires clear, accessible communication aimed at those with limited knowledge of regulation, the College's role, and PC procedures. Case reviews showed communication with complainants was generally relevant, responsive, and appropriately detailed to support understanding. However, and by contrast, internal feedback highlighted instances where complainants found the process dismissive or overly bureaucratic. More direct engagement, such as phone calls, was noted as being experienced more positively by complainants, allowing for clearer discussions of PC processes and possible outcomes. Meaningful public access and participation in the complaints process is increasingly seen as essential to fulfilling EDIB commitments.

+ During the assessment, the College's strategic communications success in Registration Services was highlighted. This was supported by a more embedded and collaborative approach with the Communications function. This collaboration enabled Communications to better understand registration processes and key messaging needs, resulting in tailored strategies such as clear language materials, user-centric resources, external feedback opportunities, and effective use of web-based tools. This approach provided timely, accessible information that supported user understanding and follow-up, serving as a model for cross-team collaboration that could enhance PC stakeholder engagement and communication.

RECOMMENDATIONS

6. Develop a strategic communication framework for PC.

+ NSCN/PC should develop a strategic communication framework that engages the public and partners, builds understanding and public trust in regulatory processes, and contributes to achieving desired outcomes. The strategy should consider the following:

  + Collaboration with the Communications function in the development and implementation of the strategy, ensuring its alignment with NSCN's EDIB commitments.

  + Identify communication priorities and audience requirements, tactics, timing and consistent messaging required to achieve its outcomes.

  + Prioritize communication with patients/public and their understanding and access the complaints process.

  + Develop messaging for employers and other partners that supports understanding of the College's role and PC processes, including clear directions on reporting information vs. use of the complaints process.

  + Evaluate communication activities and approaches to ensure currency and alignment with strategic goals and organizational needs.

  + Ensure the communication framework aligns with the Strategic Engagement Strategy.

NSCN Regulatory Guiding Principle 8

Accountable: We justify our decisions and are open to feedback. NSCN interprets this principle as including:

8. **We recognize that our work often involves competing interests and not all stakeholders will agree with every decision. There is often not a singular "right answer". We demonstrate accountability by ensuring that our decisions, actions, and guidance are:**

   a. Consistent with applicable legislative requirements;

   b. Well-reasoned;

   c. Timely;

   d. Sustainable;

   e. Compassionate;

   f. In the publics' interests. Where those interests conflict, we will strive to be equitable and mitigate the greatest risk.

+ Over the course of the assessment, including a review of selected case files, meeting observations and interviews, we saw evidence of the PC team's understanding of the importance of ensuring its regulatory activities are consistent with its legislative requirements. The recommendations under the Proportionate principle note that enhancements could be made to evidence informed processes and resources to support the rationale of its risk assessments and decision making.

+ Some feedback received from external partners suggested the practice of directly notifying nurses of a complaint or report ('a cold call') rather than receiving written notification results in nurses experiencing heightened stress. It was further suggested that direct contact from the PC team may have fairness implications for a nurse; the heightened anxiety of being contacted directly, together with a lack of understanding of PC processes, may cause a nurse to feel obliged to speak on specific issues without the benefit of seeking legal counsel first. The intent of PC providing direct notification appears positively intended to support transparency and understanding, however, there may be unintended consequences. There was no evidence to indicate PC has sought feedback or evaluated this approach and its impact on nurses.

+ Over the course of the RIA, the issue of timelines was identified. Some external partners indicated the time to complete PC matters appear to have grown exponentially over the past year or more. Internally, there is limited information about process timelines, including aggregate data, making it difficult to assess or validate these observations, so a lack of clarity around this issue remains. There was mention of NSCN having the system capability to gather this kind of data (Alinity), and that work on this issue is progressing.

+ While processes such as investigations and Fitness to Practise have many elements, including fairness requirements, the lack of available information about timelines for addressing matters and regulatory performance is a significant gap in PC's regulatory approach. Increasingly, good regulatory practices emphasize the importance of a regulator's ability to measure and report on regulatory performance, including transparency about processes and timelines. Reporting on regulatory performance data such

as timelines promotes accountability; if timelines increase then a regulator should develop plans to address and reduce delays. Managing matters in a timely fashion is critical to fairness and public trust. At this point, it does not appear that PC has identified internal or external performance baselines for its regulatory processes and therefore lacks a clear picture of its overall regulatory performance and what might require additional attention. The ability to gather and analyze PC data would also inform other areas such as policy development, EDIB commitments and communication strategies given the ability to identify risk and trend recognition integral to a right-touch approach.

+ Internally and externally, there was an impression that the College can do more to monitor and respond to emerging issues or trends. Doing so would benefit proactive approaches that mitigate risk that otherwise may result in reports and complaints. Understanding the trends positions the College to consider if regulatory action is needed, including the possibility of more proactive system engagement and communication.

RECOMMENDATIONS

7. Implement a data collection and analysis system.

+ PC, in alignment with NSCN's overall data governance approach, should implement a structured data collection and analysis system focused on its processes. Key priorities should include:

  + Tracking file and case metrics, such as timelines, outcomes, and establish baseline process indicators.

  + Producing internal reports on aggregate data to identify trends, assess timelines, and pinpoint areas of risk or improvement.

  + Explore opportunities for external reporting on aggregated data to enhance transparency and public trust.

  + Collect demographic data in alignment with best practices, ensuring cultural competence and alignment with NSCN's EDIB commitments.

8. Establish a program evaluation framework for continuous improvement.

+ PC should implement a structured program evaluation framework to regularly assess the effectiveness, experiences and impact of its processes. This framework should consider:

  + Gathering qualitative and quantitative data through surveys, interviews, focus groups, or performance metrics to measure program impact to seek feedback about its processes.

  + Assess processes and outcomes and ensure they are consistent with EDIB commitments, identifying and addressing disparities where they are identified.

  + Develop actionable enhancements to program design, and other outcomes based on evaluation findings.

NSCN Regulatory Guiding Principle 9

Agile: We look forward in our environments and adapt to anticipate change. NSCN interprets this principle as including:

9. **We are future-focused and engage in preventative regulation.**

    a. We define the behaviour and professional standards expected of registrants in a manner that is achievable, accessible, and informed by the reality and context of nursing practice.

    b. We recognize that we have a responsibility to make sure that our work remains relevant and fit for purpose, so that we continue to effectively support the maintenance and development of a safe, ethical, competent and compassionate nursing profession.

    c. We seek to minimize risk to the public while supporting innovation within NSCN, the nursing profession, and the Nova Scotia healthcare system.

+ During internal interviews there were frequent references to the NSCN Regulatory Guiding Principles being new ('Hot of the press,' as one person said). Team members are reasonably at an early stage in appreciation of the implications of the principles and the potential impact on PC processes.

+ A general reflection associated with implementing the principles were references to the team being 'risk averse'. Notably, risk aversion was not particularly apparent during the review of case files or meeting observation. It appears these references may relate more to a general caution around the new principles and their potential impact on PC (e.g., apprehension with change, implications to PC processes and staff, concern that this RIA relates to performance concerns). At the same time, there was a very strong consensus around the value and positive potential of the principles, with staff looking forward to contributing to their implementation within psychologically safe environments.

+ It was unclear whether structured internal program reviews or feedback loops are in place to support reflective learning and continuous improvement. Such practices focus on quality enhancement and shared knowledge rather than individual performance. For example, in one randomly selected case, the Complaints Committee opted for an IR following a full investigation. While the original decision to investigate is not in question here, it presents an opportunity to explore insights that could inform future case assessments and improve efficiency. Similarly, a case where the Complaints Committee overturned a CEO dismissal and directed an investigation, following considerable efforts by staff that informed the dismissal including significant engagement with the complainant. These highlight some scenarios that would benefit from structured review and could generate valuable lessons for consistent and effective decision-making.

+ There was some evidence of unintended siloed approaches to assessing matters across the team, including separate meetings for intake reviews and assessments of new complaints and reports, case management meetings, and meetings focused on unique and complex cases. While each meeting

had a relevant purpose, it was not clear why some of these were treated separately and could be better leveraged as collaborative opportunities where team members and leaders collectively discuss assessments, share insights, and apply the guiding principles in practice across PC processes. The focus here is to identify efficient and effective ways to share learning, build knowledge and feedback across the team, and should not result in complicating decision making.

RECOMMENDATIONS

9. Establish structured internal review, debrief, and learning practices.

+ PC should implement a structured approach to internal review, debrief, and learning that fosters a culture of continuous improvement and alignment with NSCN's Regulatory Guiding Principles, including:

  + Regular case reviews and debrief sessions: Facilitate routine case debrief meetings where teams can reflect on decision-making processes, outcomes, and adherence to regulatory principles. Using these sessions to identify successes, challenges, and areas for innovation while promoting open dialogue.

  + NSCN guiding principles integration: Provide reflective opportunities that explicitly connect NSCN's guiding principles to PC processes and outcomes.

  + Documentation and knowledge retention: Maintain a record of insights, best practices, and lessons learned from debriefs to build a knowledge base for team reference and onboarding purposes.

CONCLUSION

The goal of the RIA was to evaluate the effectiveness of PC processes and outcomes in serving the public interest, using NSCN's Regulatory Guiding Principles as the guiding assessment criteria. The RIA identified both strengths and opportunities for improvement that support a culture of continuous learning and right-touch thinking as PC continues to embed the Regulatory Guiding Principles in its regulatory work. It also highlighted the importance of aligning resources for maximum impact and strengthening collaboration with PC, across NSCN teams and external partners.

The PC team, alongside the broader NSCN team, deserves significant credit for their proactive and innovative approach with this assessment. The findings affirm that PC is operating from a position of strength and leadership in fulfilling its regulatory accountabilities, supported by a highly engaged team committed to ongoing regulatory excellence in the public interest.

Building on this strong foundation, the recommendations in this report collectively aim to enhance collaboration, strategic engagement, policy development, and early complaint management. Together, they support further alignment of PC's processes with NSCN's regulatory guiding principles, in support of greater consistency, transparency, and fairness. These evidence-informed recommendations are intended to help PC remain responsive to evolving public, professional, and system needs, while reinforcing public trust.

Ultimately, PC and NSCN are best positioned to determine priority actions, identify interdependence among recommendations, and assess the resources required for effective implementation planning.

SUMMARY OF RECOMMENDATIONS

1. Access to policy and research resources for Professional Conduct.

+ NSCN/PC should create a framework for policy development and research in professional conduct, including:

    + Develop a standardized framework outlining how regulatory policy and research needs are identified, approved, and implemented across the organization.

    + Implement a process where PC sets out policy and research priorities, with priority focus on Fitness to Practise as a key area for review.

    + Introduce a structured review cycle (e.g., every 3-5 years) to ensure PC practices policies, risk assessment tools and procedures remain current, reflect evolving regulatory standards and patient risk.

2. Expand the Informal Resolution program for complaint management.

+ The PC function should broaden the use of the IR program as a primary response to complaints that cannot be dismissed to efficiently and effectively address issues.

    + Supported by a policy and research, review evidence and examples of best practices with early resolution programs to inform opportunities to build on the current IR program.

    + Define suitability criteria to support assessment and decision making.

    + Consider opportunities to collaborate with other NSCN teams, particularly Standards and Guidance, to expand remedial options/actions that further support the IR program (e.g., 1:1 practice consultation, group learning with nurses, use of existing learning tools).

3. Integrate equity, diversity, inclusion, and belonging (EDIB) into Professional Conduct Processes.

+ PC should consider how to further operationalize NSCN's EDIB commitments into its processes, including:

    + Comprehensive Review of Policies and Frameworks: Conduct a review of PC policies, procedures, and decision-making frameworks through an EDIB lens. This review should leverage tools such as Equity Impact Assessments (EIAs) to identify and address potential biases or barriers.

    + Analysis of Public Use and Experience of the Health Care System: Undertake an analysis to better understand how Nova Scotia's diverse public engages with and experiences the health care system, particularly the nursing profession. This will help identify gaps and inform strategies to address disparities.

+ Analysis of the Nursing Profession: Conduct an analysis of the nursing profession within Nova Scotia to understand its composition and diversity. Additionally, examine who in the profession is impacted by PC processes.

+ Consult with external EDIB experts to support any review, ensuring engagements align with cultural safety and humility practices.

4. Develop a structured strategic engagement framework.

+ NSCN/PC should establish a structured framework to guide collaborations and engagements with partners, including:

   + Partner identification: Map key partners and groups (e.g., regulated professionals, employers, public representatives, indigenous and racial groups) and identify collaboration opportunities, learning, and resource needs.

   + Engagement objectives: Define goals such as clarifying the NSCN/PC's regulatory role, employer learning, enhancing public understanding, and promoting shared accountability for addressing risk in nursing performance.

5. Strengthen cross-department collaboration between Professional Conduct and Standards and Guidance.

+ PC and Standards and Guidance, along with other teams, should build on collaborations that support a strategic engagement framework focusing on proactive outreach to employers, regulated professionals, and other key groups to promote shared understanding of regulatory responsibilities and public protection. This may include:

   + Proactive stakeholder engagement: Jointly develop outreach initiatives, such as information sessions, webinars, and advisory meetings with employers and health system partners, clarifying roles and processes, and highlight relevant NSCN supports and resources.

   + Consistent messaging for engagement: Align strategies between the teams to ensure clear, unified messaging when engaging with partners, particularly around NSCN's regulatory role and team processes, supports, and expectations of partners.

6. Develop a strategic communication framework for PC.

+ NSCN/PC should develop a strategic communication framework that engages the public and partners, builds understanding and public trust in regulatory processes, and contributes to achieving desired outcomes. The strategy should consider the following:

- + Collaboration with the Communications function in the development and implementation of the strategy, ensuring its alignment with NSCN's EDIB commitments.

- + Identify communication priorities and audience requirements, tactics, timing and consistent messaging required to achieve its outcomes.

- + Prioritize communication with patients/public and their understanding and access the complaints process.

- + Develop messaging for employers and other partners that supports understanding of the College's role and PC processes, including clear direction on reporting information vs. use of the complaints process.

- + Evaluate communication activities and approaches to ensure currency and alignment with strategic goals and organizational needs.

- + Ensure the communication framework aligns with the Strategic Engagement Strategy.

7. Implement a data collection and analysis system.

- + PC, in alignment with NSCN's overall data governance approach, should implement a structured data collection and analysis system focused on its processes. Key priorities should include:

  - + Tracking file and case metrics, such as timelines, outcomes, and establish baseline process indicators.

  - + Producing internal reports on aggregate data to identify trends, assess timelines, and pinpoint areas of risk or improvement.

  - + Explore opportunities for external reporting on aggregated data to enhance transparency and public trust.

  - + Collect demographic data in alignment with best practices, ensuring cultural competence and alignment with NSCN's EDIB commitments.

8. Establish a program evaluation framework for continuous improvement.

- + PC should implement a structured program evaluation framework to regularly assess the effectiveness, experiences and impact of its processes. This framework should consider:

  - + Gathering qualitative and quantitative data through surveys, interviews, focus groups, or performance metrics to measure program impact to seek feedback about its processes.

  - + Assess processes and outcomes and ensure they are consistent with EDIB commitments, identifying and addressing disparities where they are identified.

  - + Develop actionable enhancements to program design, and other outcomes based on evaluation findings.

9. Establish structured internal review, debrief, and learning practices.

+ PC should implement a structured approach to internal review, debrief, and learning that fosters a culture of continuous improvement and alignment with NSCN's Regulatory Guiding Principles including:

  + Regular case reviews and debrief sessions: Facilitate routine case debrief meetings where teams can reflect on decision-making processes, outcomes, and adherence to regulatory principles. Using these sessions to identify successes, challenges, and areas for innovation while promoting open dialogue.

  + NSCN guiding principles integration: Provide reflective opportunities that explicitly connect NSCN's guiding principles to PC processes and outcomes.

  + Documentation and knowledge retention: Maintain a record of insights, best practices, and lessons learned from debriefs to build a knowledge base for team reference and onboarding purposes.

APPENDIX A

NSCN Regulatory Guiding Principles

Effective July 23, 2024

Proportionate:

We only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimized. NSCN interprets this principle as including:

1. **We understand that we cannot eliminate all risk. We direct our resources at matters that pose the greatest risk, having regard to severity and frequency.**

   a. We focus on nurses' Practise and client-related conduct in Nova Scotia, as well as issues that raise significant questions about the trustworthiness or integrity of a nurse as a professional.

   b. We make decisions based on the factual information we have, not on speculation or assumptions about what could be.

2. **We seek to manage the risk that a registrant poses to clients or members of the public in the future.**

   a. We look for the causes of, and contributors to, a nurse's conduct. We recognize that issues related to a nurse's competence or health should be treated differently than deliberate or reckless conduct.

   b. Punishment is not the purpose of our regulatory work. We remediate where possible. We also understand that, in appropriate cases, licensing sanctions may be required.

   c. We recognize that it is in the public interest to keep competent nurses in the healthcare system.

Consistent:

We align our rules and standards and implement them fairly. NSCN interprets this principle as including:

3. **We take purposeful steps toward enhancing equity, diversity, inclusion and belonging in and through our regulatory work.**

   a. We recognize that we serve multiple publics with diverse needs and interests that may conflict.

   b. We also recognize that fairness and the effective fulfillment of our role in enhancing equity, diversity, inclusion and belonging may require us to consider an individual's needs and circumstances in determining an appropriate regulatory response, which may result in different actions or outcomes for different individuals within our regulatory framework.

Targeted:

We focus on the problem and minimize side effects. NSCN interprets this principle as including:

4. **We seek to identify the issue before developing a regulatory solution. We are attentive to the outcomes and unintended consequences of the chosen solution.**

    a. When making decisions, we take the surrounding context into account, including the Practise environment.

    b. We strive to understand the impact of our processes and assess whether our work is effective.

    c. We seek to minimize burdens posed by regulation that are not in proportion to the risk.

5. **We work collaboratively to ensure we identify the right problems and solutions.**

    a. We believe that protection of the public in their use of nursing services is a collective responsibility shared by participants in the healthcare system, including individual nurses, nursing employers, and NSCN.

    b. We trust and support the work of other regulators. We strive to work collaboratively on interjurisdictional matters.

    c. Our staff teams recognize the interconnected nature of their work and collaborate to develop consistent and integrated regulatory processes.

    d. We seek to understand the needs and concerns of the publics we serve and welcome their feedback on our performance.

6. **We understand that not all issues require our involvement, and some are better addressed by others with a non-regulatory solution.**

    a. Employers should be the first to manage concerns about a nurse's Practise, unless the risk to clients and the public is so serious that we need to take immediate action, the risk continues after an employer has intervened, or the employment relationship has ended.

    b. There are several other forums that may be better suited to a particular issue, including labour processes, a healthcare facility's internal complaints process, Human Rights, Labour Standards, the justice system, or Protection for Persons in Care.

Transparent:

We make ourselves open and accessible and keep regulations simple and user- friendly. NSCN interprets this principle as including:

7. **People are the focus of our work, and we strive to build and maintain their trust.**

    a. We listen openly.

    b. We explain what action we can take and why.

    c. Information on our processes, standards and ethics is publicly accessible and written in plain language.

    d. We strive to engage in open decision-making that respects legislative confidentiality requirements and the privacy interests of participants.

Accountable:

We justify our decisions and are open to feedback. NSCN interprets this principle as including:

8. **We recognize that our work often involves competing interests and not all stakeholders will agree with every decision. There is often not a singular "right answer". We demonstrate accountability by ensuring that our decisions, actions, and guidance are:**

   a. Consistent with applicable legislative requirements;

   b. Well-reasoned;

   c. Timely;

   d. Sustainable;

   e. Compassionate;

   f. In the publics' interests. Where those interests conflict, we will strive to be equitable and mitigate the greatest risk.

Agile:

We look forward in our environments and adapt to anticipate change. NSCN interprets this principle as including:

9. **We are future-focused and engage in preventative regulation.**

   a. We define the behaviour and professional standards expected of registrants in a manner that is achievable, accessible, and informed by the reality and context of nursing Practise.

   b. We recognize that we have a responsibility to make sure that our work remains relevant and fit for purpose, so that we continue to effectively support the maintenance and development of a safe, ethical, competent and compassionate nursing profession.

   c. We seek to minimize risk to the public while supporting innovation within NSCN, the nursing profession, and the Nova Scotia healthcare system.