



## Guidelines for Decision-Making in the Public Interest

### 1. PURPOSE

The Mission of the Nova Scotia College of Counselling Therapists (the 'Regulator') is to regulate the profession of counselling therapy *exclusively* in the public interest.

**1.1** The *Nova Scotia Counselling Therapists Act* provides that the Regulator's objects are to:

- (a) serve and protect the public interest;
- (b) preserve the integrity of the profession; and
- (c) maintain public confidence in the ability of the profession to regulate itself.

Currently, The Act (s. 4) authorizes the Regulator to:

- (a) govern its members in accordance with this Act and the regulations;
- (b) establish, develop and promote standards of practice among its members;
- (c) establish, develop and promote a code of ethics for its members;
- (d) approve continuing-education credits for the benefit of its members;
- (e) subject to clauses (d) to (g), and in the public interest, advance and promote the practice of counselling therapy; and
- (f) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section.

**1.2** The new *Regulated Health Professions Act (2023)* (s. 6(1)) provides that the Regulator's objects are to:

- (a) protect the public from harm;
- (b) serve and promote the public interest;
- (c) subject to the public interest, preserve the integrity of its profession; and
- (d) maintain public confidence in the ability of the regulatory body to regulate its profession.

In order to effectively carry out the objects of the regulatory body, the Act (s. 6(2)(a)) requires that the Regulator:

(a) shall regulate the provision of its profession's services and govern its registrants through

- (i) the registration, licensing, professional conduct, education approval and other processes set out in this Act and the regulations,
- (ii) the approval and promotion of a code of ethics, and
- (iii) the establishment and promotion of
  - (A) standards of practice for the provision of its profession's services,
  - (B) entry-level and other competencies, and
  - (C) continuing-competence programs;

Although the Regulator is at a point of transition, the current and future legislation are consistent in emphasizing that public interest is the core object of self-regulation. Therefore, these guidelines apply equally now and in the future.

Decisions made by the Regulator at all levels involve a balancing of interests and evaluation of risks to the public in order to meet the Regulator's purpose and mission.

These guidelines are intended to describe how the Regulator maintains its focus on the public interest as it fulfills its responsibilities under the *Act* and strives to give life to what it means to 'serve and protect the public interest'.

Through its Mission and Objects under the *Act*, *Regulations* and *Bylaws*, the Regulator has determined that protection and promotion of the public interest should drive all decisions made and activities undertaken by its Board, committees, the Registrar and staff. These guidelines are aspirational and serve to assist and guide the Board, Committees, Registrar and staff to make public interest the *primary* consideration in decision-making and to demonstrate how that occurs through a commitment to transparency, consistency, relevant considerations and a principled approach to all regulatory and other decision-making.

## **2. PUBLIC INTEREST AS A KEY FOUNDATIONAL PRINCIPLE**

Protection of the public by the regulator comes in many forms. It includes:

- Developing and maintaining high standards and clear and accessible processes for registration and licensing
- Setting standards of practice to support counselling therapists in delivering services in a safe, competent and ethical manner
- Promoting equity, diversity and inclusion in the profession
- Addressing concerns and complaints about the conduct of counselling therapists through fair, transparent and accountable means

The Regulator strives to operate in a manner that promotes the reputation of the counselling therapy profession as worthy of trust and respect, and to be able to confirm that registrants are competent and ethical in practice.

### **3. FOUNDATIONAL PUBLIC INTEREST FACTORS TO CONSIDER**

Relevant factors are considered when making decisions that may affect the public whose interests are to be protected. To advance its approach to promoting and protecting the public interest, the Regulator has enshrined several approaches to how it analyses and applies its public interest lens:

- i. Being principled and proportionate in decision-making
- ii. Committing to risk-focused and evidence-based decision-making
- iii. Considering legal requirements under the *Act, Regulations, Bylaws* and policies, and other applicable legislation including the *Fair Registration Practices Act*, the *Regulated Health Professions Act*, and the *Patient Access to Care Act*, etc.,
- iv. Consistently applying and being guided by the Regulator’s Mission, Vision, Values and objects, and
- v. Being fair, accountable, transparent, efficient and effective.

The College seeks to make decisions grounded on these foundational public interest factors, as well as effective governance and decision-making principles.

### **4. CONSIDERATION OF PUBLIC INTEREST FACTORS FOR REGULATORY DECISIONS**

Evidence-based and risk-focused decision-making are key components of the Regulator’s commitment to protecting the public interest. Considerations by the Registrar, the Board and Statutory Committees of the public interest include assessment of the following factors as they relate to the nature of the decision to be made. Consideration of how these factors connect to the intended outcome is an important step:

**4.1 Risk to the public** – this is based on the Regulator’s knowledge of risks associated with an issue under consideration. The risks can be actual, anticipated or foreseeable.

Factors relevant in this assessment may include:

- In the case of complaints, the nature of the alleged misconduct or lack of competence on the part of the registrant and whether the personal or practice circumstances of the registrant are indicative of risk
- In the case of licensing and registration matters, the position or response of the registrant or applicant to the concern at hand; for example, in the case of prior discipline by another regulatory body

- When considering past conduct in the case of registration applications or complaints, whether the conduct may impact suitability to practice for the purposes of meeting the requirement that a registrant demonstrates competence, capacity, capability and character
- In the case of Board policy decisions, being able to demonstrate a clear connection between the regulator's objects and the anticipated outcome of a new policy or program

**4.2 The registrant's circumstances** – when considering risk relating to individual registrants, factors to be considered may include:

- Any relevant complaints or discipline history
- Any mitigating factors such as whether the registrant is a repeat offender or has demonstrated a pattern of ungovernability so that compliance with professional standards or any conditions may be unlikely
- The impact of an order for conditions or suspension on the registrant and/or the registrant's clients
- The significance of any alleged misconduct or other risk factors
- How a reasonable member of the public might regard the matter
- Whether the risks or concerns relate directly to a registrant's practice (as compared with a personal matter that does not or has not impacted their practice)
- Any evidence demonstrating an impact on public confidence
- Whether public confidence in the ability of the Regulator to regulate the profession is likely to be harmed if the Regulator suspends or restricts a registrant and it later appears the suspension or conditions were not warranted

**4.3 The ability of the Regulator to effectively regulate** – consider whether the Regulator's ability to effectively regulate the profession in the public interest may reasonably be harmed if the registrant is permitted to continue to practice with or without conditions

**4.4 Alternatives** – can the public interest, including in the effective regulation by the Regulator, be protected through alternate means other than, for example, conditions or suspension?

**4.5 Proportionality** – is the proposed decision proportional to the identified risk or harm? For example, is a decision by the Registrar to not permit renewal of a license reasonable under all relevant circumstances, taking into account the foreseeable risks to the public if the renewal is permitted?

**4.6 Consistency** – is the proposed decision consistent with previous decisions of a similar nature?

These guidelines recognize the unique character and context of each decision, and the Regulator, Board and Committees will consider the information, evidence, positions and arguments presented, and balance and give appropriate weight to relevant factors in making a regulatory decision. The factors above should be considered solely for guidance purposes when assessing the public interest relevant to any such decisions.

**END**

Approved. 2024-12-14

Effective. 2024-12-14