

Ms. Sherry Marks  
Policy, Planning & Legislation Branch  
Nova Scotia Department of Health  
P. O. Box 488  
Halifax, Nova Scotia B3J 2R8

June 3, 2004

**RE: Health Professions Legislation**

Dear Ms. Marks:

I previously wrote Dr. Ward on April 20 (copied to you), requesting additional time for the Nova Scotia Board of Examiners in Psychology to respond to Dr. Ward's letter concerning proposed umbrella legislation for health professions. On May 11, Dr. Ward replied, extending the timeline for us.

As you are aware, the NSBEP has as its primary concern the protection of the public through the regulation of the practice of psychology and title of Psychologist. We support accountability and appropriate consistency across disciplines. To that end, we were involved in the writing of a new Psychologists Act, which was passed by the house in October 2000, and proclaimed in June 2002. This Act brought us in line with the approach to governance of many other professions in Nova Scotia and across Canada. We were pleased to receive news on April 15 of the Minister's appointment last month of the first of the two lay members of our Board, which were provided for in the new legislation.

The Board recognizes that the proposed legislative changes have complex implications for many aspects of health-related services for Nova Scotians. Broad changes have the potential for significant harm as well as their intended benefits, and need, therefore, to be entered into with sufficient consideration by parties with experience in the governance of health professions.

The NSBEP agrees wholeheartedly with many of the points made in the Proposal. We especially share the Department's concern that many who currently actively practice in the health-care field in the province are unregulated. Such titles as "counsellor", "therapist", "assessor", and "psychotherapist", for example, along with any such variations as "family therapist" or "addictions counsellor" are completely uncontrolled, permitting practice, advertising, and use of the title in any context by completely unqualified individuals. (The

majority of the listings for counselling in the yellow pages of the Halifax telephone directory, for example, are by unregulated individuals and groups.) The public has no access to any means to determine the appropriateness of credentials by such individuals, nor any recourse, should there be violations of ethics. Indeed, there are no ethical standards to which there is recourse.

Thus, we are pleased to see the government taking steps toward regulation of those who are currently unregulated and whose unregulated practice may endanger the health and wellbeing of citizens. Because we have recently participated in the development of new legislation to regulate psychology and because we frequently receive queries from a confused public, who expect that counsellors, therapist, and so forth are regulated titles and practices, we would be pleased to participate in any consultations concerning the development of such regulatory legislation.

The NSBEP believes, however, that many of the concerns raised in the Proposal have already been addressed with respect to psychology and psychologists, in The Psychologists Act (200), as noted in the following:

- focus of legislation*     The focus of The Psychologists Act is entirely on the protection of the public, as established by joint efforts between the government and the profession, in the development of the Act.
- scopes of practice*     The Psychologists Act is an act that constrains use of the title, “Psychologist” and activities that are held out to be the practice of psychology. It does not in any respect restrict the scope of practice of other professions. Scope of practice was defined in our act, but there is still no ability to deal with unregulated practitioners who practise psychology without using the title.
- policy*     The Psychologists Act was developed in close cooperation between psychologists and government. Government policy guided much of its content and form. The Act was developed to be in line with those of other professions in Nova Scotia, including other health professions.
- criteria for decisions*     Psychology has a long history of self-regulation in Canada and elsewhere. The protection of the public is the paramount feature of psychologists’ codes of ethics, which have been formally adopted and guide practice in all regulated jurisdictions.
- Self-regulation of psychology is in the public’s interest because it results in maximum sensitivity to issues that are less transparent to those outside the discipline. The rights of consumers are not the same in all disciplines. Boundary issues, for example, are necessarily very different for lab technicians than they are for psychologists. Similarly, issues of confidentiality and **informed** consent are very different for different professions. By virtue of the sensitive and personal nature of the information that psychologists deal with in their work, the steps that

psychologists need to take to ensure confidentiality and informed consent are different than those of many other health professions. Rather than improving the standards of practice in health care, our concern would be that umbrella legislation could result in a dilution of such standards.

*volume of legislation* Our statute has been revised once in its entire history. Little change occurs over time in basic ethical and professional principles guiding the discipline, the protection of the public, and appropriate quasi-legal processes to address complaints by the public.

*accountability* The government's authority to appoint members to our Board assists in maintaining public accountability. In fact, we would be pleased to receive another appointment of a non-psychologist to our Board. Following proclamation of the Act in June 2002, the Board has had to function without any non-psychologist appointees until April of this year, when one was appointed. The second seat remains vacant.

Also, we believe there are other measures which can be taken to enhance accountability of professions to the government, and therefore the public without instituting umbrella legislation. For example, regulating bodies could provide regular reports to the government regarding ethical violations.

The proposed legislation is silent regarding the manner it would seek to regulate and increase accountability of presently unregulated professions.

We would also be pleased to engaged in any enhanced communication with government.

Thus, The NSBEP believes that the public interest is well served by the current self-regulation of psychology in Nova Scotia.

The NSBEP has concerns about the application of umbrella legislation to all health professions. The experience of psychologists in British Columbia, Ontario and Alberta, where umbrella or omnibus legislation has been enacted, has been that there have been many, additional and layers of complexity added to the regulation of all health professions, regardless of their size. As a result, whether the profession includes many thousands or only a few hundred practitioners, the same procedures are required, which results in the same costs. For smaller professional bodies, those costs are shared among few members, and result in extremely high professional fees. The proposed legislation could therefore result in driving practitioners from the regulated professions to those that are unregulated, where they can continue to practice by use of unregulated titles. This clearly is not in the public interest and is contrary to goals described in the preamble of the proposed legislation regarding regulation .

The practice of psychology includes numerous areas that are not entirely health-related: industrial/organizational or consulting to business and educational psychology, for example. It appears inappropriate to have these practitioners regulated under umbrella legislation for health professionals.

In sum, we are supportive of the aims of the Proposal, and we believe that the Psychologists Act and the current framework for regulation of psychology works well to achieve those aims. We have concerns about fallout from umbrella legislation for all health professionals, and would be pleased to continue to communicate with the Department as its planning continues.

If the Minister of Health establishes an advisory body, we strongly recommend appointment of a psychologist familiar with regulatory matters to that body, and we would be pleased to consult at any time.

Thank you for the opportunity for the Nova Scotia Board of Examiners in Psychology to provide input.

Sincerely yours,

Myles Genest, Ph.D.  
Chair

- c. Dr. Thomas Ward
- Dr. John Campbell
- Dr. Carolyn Humphreys
- Ms. Meredith Burns, Registrar, NSBEP