

**Elan MacDonald, Board Chair**

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September 24, 2024

We are pleased to submit this report of the review by The Regulator's Practice of the performance of the Real Estate Council of Alberta. This review was initiated by RECA based on its desire to have an independent assessment of its current regulatory programs in order to continue to improve how it fulfills its regulatory mandate.

The report sets out our terms of reference, summarizes RECA's legislation, describes our approach to gathering evidence and our overall assessment of how RECA meets its regulatory objectives in the interests of the public.

We assessed the performance of the regulator against the Standards of Good Regulation and set out our reasons for deciding whether the Standards are met, partially met or not met. We have found that RECA fully meets five Standards, partially meets twelve Standards and does not meet one.

We have made recommendations, which, if accepted and put into effect, we consider would address the four broad themes emerging from the review:

- + Ensuring that the protection of consumers and the interests of the public in Alberta are the goal of everything that RECA does;
- + Improving effectiveness and efficiency in the performance of core regulatory functions;
- + Improving policy development, based on sound research and understanding of the sector and the collection and analysis of internal data; and
- + Increasing transparency and openness about what RECA does and how decisions are made, so that it is more visibly accountable to the publics it serves.

It is important that RECA recognizes the impact of its continued work to improve its regulatory processes within its relatively new legislation. Our hope is that the feedback within this review creates the platform to both address existing gaps and to build on articulated strengths. We are confident that if RECA continues to work on the fundamentals of regulation, it will be able to meet in full all the Standards of Good Regulation. Some of the Standards that are not yet met in full require only small, targeted changes to current programs; others will require more policy research and deliberation to determine the best course of action within RECA's current context. RECA's openness to independent assessment reflects a commitment to continuous improvement that will be an invaluable asset as it addresses the feedback and continues to evolve as a regulator.



We would like to thank RECA and staff who have been unfailingly helpful and ready to share internal policies, procedures and practice with us. Without their cooperation and assistance this review would not have been possible. We would particularly like to thank Brooklyn Elhard, Rina Hawkins and Amit Sahota for their support throughout the review.

We assembled a team of experienced regulatory practitioners to conduct this review. We have listed the members of our team involved in the project and their backgrounds in Appendix 3.

We hope that this report will be of help to the Board and the staff as it continues to improve its service to the people of Alberta and the real estate industries.

Sincerely,

THE REGULATOR'S PRACTICE INC.

PER:

**Bradley Chisholm**

Principal

**Kevin McCarthy**

VP Advisory Services



# Real Estate Council of Alberta Regulatory Review Report

September 2024



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# 1. INTRODUCTION

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**1.1** In November 2023, the Real Estate Council of Alberta (RECA) retained The Regulator's Practice to complete an independent review and assessment of RECA's five core regulatory functions:

- + Registration Services
- + Practice Review (field audit)
- + Investigations
- + Conduct Counsel (prosecutions)
- + Hearings Administration

**1.2** The purpose of this voluntary review was to evaluate RECA's regulatory oversight to assess whether RECA demonstrates accessibility, accountability, impartiality, and independence in fulfilling its regulatory mandate in a transparent, effective, and timely manner.

The deliverables for this review include:

- + Providing an assessment criteria matrix for review and approval
- + Creating a workplan with detailed activities and timelines for the review
- + Conducting a regulatory review of the five core regulatory functions
- + Preparing a written report with findings and recommendations
- + Facilitated debrief discussions with RECA's Board, committees, senior leadership, and staff.



## 2. OUR APPROACH TO THE REVIEW

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**2.1** To provide reliable assessment criteria for this review, The Regulator’s Practice adapted the Professional Standards Authority’s Standards of Good Regulation (the Standards). The Standards are globally recognized and have been the basis of performance reviews for professional regulatory bodies across jurisdictions, describing the outcomes expected from good regulators working to protect and serve the public interest. Using the Standards for this review also aligned with a right-touch approach to regulation, where only the regulatory force necessary is used to achieve the desired impact.

**2.2** The Standards describe how consumer interests are protected and served through regulatory activity. Reviewed individually, they allow for an assessment of how well a regulator meets each regulatory outcome. When considered collectively, the assessment can allow for analysis and identification of common or broader themes.

A regulator can demonstrate they meet the standards by drawing on evidence from a range of sources:

- + **Policy** - in which the regulator details how it will act to deliver its statutory duties and use its powers
- + **Practice** - through which the regulator’s policies are delivered on a day- to-day and case-by-case basis
- + **Oversight** - through which the regulator can monitor performance, identifying opportunities to improve as required
- + **Evaluation** - measurement of impact and outcome, with data showing how the regulator’s intentions are delivered and its effectiveness measured.

**2.3** The customized Standards developed for this review reflect refinements that are relevant to RECA’s regulatory context, legislation and core regulatory functions. They were developed by The Regulator’s Practice in consultation with RECA, and the Standards were then reviewed and approved by RECA’s senior leadership. The Standards we used in this review can be found in the Appendices.

**2.4** The Standards used in this review may have more than one element, so it is possible to meet part rather than all of a single Standard. Like the standards used in professional practice, the Standards of Good Regulation set the requirements for competent performance in that area of regulation. ‘Met’ means all the requirements of the Standard are in place. ‘Partially met’ means some but not all the requirements are in place. ‘Not met’ means that the evidence is insufficient to demonstrate that the regulator meets the requirements of the Standard.

**2.5** The Standards of Good regulation set a high bar. It is rare for a regulator to meet all of them the first time they are assessed and common to partially meet most. ‘Partially met’ allows a regulator to identify those areas of performance which need attention and so continue to improve. Occasionally a regulator is unable to meet a Standard for reasons outside its control - such as the limitations of its legislation. In this case, the Standard remains unmet and the external reasons for it doing so are acknowledged.



- 2.6** This review was conducted between April 2024 and August 2024. During two visits to RECA's offices (April 22-26, May 13-16) we observed how the RECA team fulfilled their regulatory roles. We also reviewed documentary evidence and electronic platforms, met with the Registrar, senior leadership and managers accountable for all five regulatory functions. We met with staff to review processes, case reviews, technology, documentation and gather evidence. Interviews were held in-person and virtually over the course of the review. We reviewed 72 randomly selected case files for the Registration, Credentialing and Practice Review, and 64 Investigations, Conduct Counsel and Hearings files. To ensure currency of the information, selected files were active within the past three years.
- 2.7** Over the course of the review, we also observed various meetings (in person and virtually) including the Board, Finance and Audit Committee, Governance and HR Committee, Industry Councils, Investigations Intake meetings and team meetings. We also held follow up virtual meetings with senior leadership, managers and staff for information requests and interviews.
- 2.8** Externally, we sought information from third parties and met with representatives of the Calgary Real Estate Board, the Realtor Association of Edmonton, Alberta Real Estate Association, Building Owners and Managers Association of Edmonton, and the Alberta Mortgage Brokers Association.
- 2.9** This report is a summary of the evidence we gathered, our findings, and our recommendations for improvement. For each of the 18 Standards, we conclude whether RECA is meeting, partially meeting or not meeting the Standard. Our assessment allows for an understanding of RECA's core regulatory function performance and recognizes areas of strength and areas requiring attention.
- 2.10** A final draft of this report was made available in confidence to Warren Martinson, Registrar, to check for any factual errors and allow for consideration of additional evidence. The final report is the independent view of The Regulator's Practice.

## 3. RECA'S LEGAL FRAMEWORK

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### Legislative Basis

- 3.1** The Real Estate Act (the Act) provides the legislative basis for RECA's regulatory activities. It was last amended in November 2022. The Act recognizes the need for effective regulation of the real estate industry' and states that RECA is 'intended to provide that regulation to protect the public and support the real estate industry'.
- 3.2** The Act establishes RECA, which consists of the members of the Board. Section 5 of the Act describes the purpose of the Board, including:
- + to set the strategic direction and ensure effective operation of the Council
  - + to protect against, investigate, detect and suppress fraud
  - + to provide or support the provision of services and other things that facilitate the business of licensees as provided for in the regulations.
- 3.3** Alongside the Board, the Act provides for the appointment of an Executive Director and a Registrar. Both roles are accountable to the Board. Neither role can be filled by a current RECA licensee. If a licensee is appointed to either role, they must give up their licence.
- 3.4** The Act also provides for the establishment of four Industry Councils. These are:
- + Residential real estate broker industry
  - + Commercial real estate broker and commercial property manager industry
  - + Residential property manager industry
  - + Mortgage broker industry
- 3.5** Each Council has two public members appointed by the minister and three licensee members, elected from the membership. Section 7.2 of the Act sets out the purpose of the Industry Councils as setting and enforcing standards of conduct for licensees, to protect consumers and promote the integrity of the industry.
- 3.6** The Board has three public members appointed by the Minister, and four licensee members, one from each Industry Council.
- 3.7** The Act gives powers to the Minister, the Lieutenant Governor in Council, the Board and the Industry Councils to make regulations, bylaws and rules. At July 2024 these were as follows:
- + Real Estate Exemption Regulation (1 December 2021) - The Exemption Regulation
  - + Real Estate (Ministerial Regulation) (30 November 2022) - The Ministerial Regulation
  - + Real Estate Act Rules (17 July 2023) - The Rules
  - + Real Estate Act Bylaws (17 July 2023) - The Bylaws





**3.8** The discussion below summarises those parts of the Act, the Regulations, the Rules and the Bylaws that are relevant to the scope of this review, namely:

- + Registration
- + Practice review (field audit)
- + Hearings, including investigations, conduct prosecutions, and administration.

## **Registration**

**3.9** Section 17 of the Act provides the basis for licensing. It states that no person shall trade as a real estate broker, deal as a mortgage broker, act as a property manager, or advertise or hold themselves out as such without a licence issued by the appropriate Industry Council.

**3.10** The Exemption Regulation sets out who is exempt from the licensing requirements. Section 12 of the Act gives the Industry Councils the power to make rules relating to aspects of licensing, including:

- + Establishing different classes of licensees and different classes of business of licensees
- + The issuing of licences, including eligibility requirements, applications for licences, requirements for criminal record checks, terms and conditions, duration, cancellation of licences.

**3.11** Section 11 of the Act gives the Board power to make Bylaws relating to appeals of decisions to refuse to issue, to cancel or to suspend a licence or a refusal to reinstate a licence. In practice the details of the licensing process are covered in the Rules (see below).

**3.12** Part 1 of the Rules covers licensing. Division 1 outlines the different classes of licences. Each area of real estate covered by a single Industry Council has different licence classes:

- + Brokerage
- + Broker
- + Associate broker
- + Associate

**3.13** Brokerages employ or are associated with brokers, associate brokers and associates. Brokers, associate brokers and associates are licensed through RECA and registered with a brokerage.

**3.14** Division 2 sets out the duration of licences, licence termination, withdrawal from the industry, and lifetime licensing prohibition. Division 3 lists the eligibility requirements for a licence and a registered business office. Division 4 describes licensing requirements for individuals, including educational standards, the content of an application, and requirements for relicensing. Section 16 gives the Registrar the power to grant an exemption from any or all educational standards prescribed by an Industry Council. Section 22 gives the Registrar the power to issue a licence subject to conditions.



- 3.15** Division 5 details some restrictions on individual registrations with brokerages. Section 29 restricts brokers, associate brokers, and associates in each industry council sector from registering with more than one brokerage in that sector. Division 6 sets out the licence requirements for brokerages.
- 3.16** Division 7 lays out the powers for the Registrar to refuse to issue a licence, to suspend or cancel a brokerage licence, the process for ceasing business. It also outlines further circumstances when the Registrar can suspend or cancel a licence, including provisions for an evidence review prior to a decision to suspend or cancel licensing. Division 8 sets out provisions for review of a Registrar's decision to refuse, suspend or cancel a licence. Division 9 describes the notifications that licensees are required to provide the Registrar.

## Practice Review

- 3.17** Provision for the Practice Review function is made in Section 74 of the Act. This gives power to the Registrar or person authorised by the Registrar to conduct periodic inspections of the business of a licensee and goes on to outline the nature of the inspection, describing the documents and assets that may be examined.
- 3.18** Section 81 of the Act sets out that any person failing to comply with the inspection under section 74 may be subject to an administrative penalty up to \$25,000.
- 3.19** There is nothing further in regulations, Rules or Bylaws about this activity.

## Hearings

- 3.20** Part 3 of the Act details the process of conduct proceedings. Key roles are played in this process by the Registrar, the Hearing Panel and the Appeal Panel, with some responsibilities sitting with the Industry Councils.
- 3.21** Section 36 of the Act states that hearing panels and appeal panels must have at least three members, at least one member of public and one licensee. The Act stipulates that members of public must not outnumber licensees on panels.
- 3.22** Section 37 of the Act allows for two sources of complaint about a licensee's conduct: a person (the complainant) and the Registrar themselves. Where a complaint is made, the Registrar may commence an investigation, but section 38.1 of the Act gives the Registrar powers not to investigate, or to discontinue an investigation. The Ministerial Regulation, in section 21, provides further details on the grounds for a decision not to investigate, including conduct being subject of a prior complaint, frivolous or vexatious complaints, or if a breach is minor and the licensee is sent an Advisory Note.
- 3.23** The investigator is given a range of powers to compel information and cooperation from any person relevant to the investigation by sections 38 and 83.2. If a licensee fails to cooperate, the Industry Council has the power to temporarily suspend their licence under section 38.



- 3.24** Once the investigation is complete, section 39 gives the Registrar is given power to take a decision to
- + Take no further action
  - + To refer to a Hearing Panel
  - + To issue a letter of reprimand
  - + To impose an administrative penalty.
- 3.25** Complainants are able to appeal a decision by the Registrar to not investigate or to take no further action under section 40. These appeals are heard by a Hearing Panel, who have powers to order the complainant to pay costs if the complaint is frivolous or vexatious.
- 3.26** Licensees can appeal a decision by the Industry Council under section 38(4.2) to suspend their licence for non-cooperation, and decisions by the Registrar under section 39 to issue a letter of reprimand or a notice to pay an administrative penalty. These appeals are heard by a Hearing Panel.
- 3.27** The detailed provisions regarding administrative penalties are found in Section 83. If the Registrar is of the opinion that a person has contravened a provision of the Act, regulations, the rules or the bylaws, they can require the person to pay an administrative penalty. If a person pays an administrative penalty, they may not be charged under the Act for the same contravention. Schedule 5 to the Rules lists the maximum penalties for different breaches (up to \$25,000).
- 3.28** A Hearing Panel is convened for conduct concerns referred by the Registrar. Section 41 describes the time frames for the Hearing Panel process. A hearing should be commenced within 60 days of a matter being referred by the Registrar. Section 42 of the Act describes the hearing rules.
- 3.29** At its conclusion, under section 43 of the Act, a Hearing Panel can decide to cancel or suspend a licence, reprimand the licensee, impose conditions or restrictions on the licensee, require the licensee to pay a fine (up to \$25,000 per finding), prohibit the licensee from applying for a new licence for a period of time or until conditions are met. The Hearing Panel also has powers to order the licensee to pay costs associated with the investigation and hearing, in line with details set out in the Board's Bylaws.
- 3.30** Section 46 of the Act gives the licensee the opportunity to submit a statement admitting their conduct at any point prior to a Hearing Panel. If a statement is received and accepted by the Board, under section 47 the matter is then referred to a Hearing Panel for consideration where it is deemed to be a finding of the panel and the licensee's conduct is deserving of sanction.
- 3.31** Both the licensee and the Registrar can appeal Hearing Panel decisions to an Appeal Panel under section 48. The Registrar can only appeal if it is in the best interests of the public. If the licensee appeals, the Hearing Panel sanction order may be stayed pending the outcome of the Appeal.



- 3.32** Section 50 of the Act gives an Appeal Panel the power to make a finding or order that in its view should have been made by the Hearing Panel. It can also quash, vary, or confirm the Hearing Panel's order, or refer the matter back to the Hearing Panel for further consideration.
- 3.33** Section 52 gives powers to the licensee and the Registrar to appeal an Appeal Panel decision to the Court. The Registrar needs Industry Council approval to appeal to the Court.
- 3.34** Temporary orders to suspend a licence or impose conditions or restrictions on a licence pending the outcome of Conduct proceedings can be made by the chair of an Industry Council under section 53. The licensee can appeal a temporary order to the Court.
- 3.35** Section 54 of the Act gives a licensee the opportunity to apply to the Industry Council to have their licence withdrawn if they are subject to proceedings under Part 3 of the Act. The Act states that the Industry Council must reject such an application from a licensee if there are allegations of criminal activity or fraud. Section 12 of the Rules further state that a withdrawal application under this provision means a lifetime withdrawal from the industry.
- 3.36** Section 55 of the Act gives the Board, the Industry Councils and the Registrar the power to publish information about licence refusals, suspensions and cancellations, licence withdrawals, and prosecutions and disciplinary actions. They also have the power to share information with organisations that regulate similar activities in other provinces and territories.
- 3.37** Section 73 of the Act gives any person or body ordering the cancellation or suspension of a licence the power to prohibit any other licensee who was acting as an employee or an agent of the licensee from carrying on business.
- 3.38** The Act gives the Board the power to make Bylaws relating to various aspects of conduct investigations, panel appointments, and the practice and procedures for hearing and appeal panels. Part 8 of the Bylaws makes provision for this through the 'Hearing and Appeal Practice and Procedure Guidelines'. The current edition is dated November 2023. The guidelines state that the civil standard of proof is used in conduct proceedings. They also outline the process followed in hearing panels, appeal panels, licensee appeals of Registrar's decisions (including licensing decisions), and complainant appeals.

### **Planned Revisions and Updates**

- 3.39** RECA is currently consulting on proposals to amend the Rules. The scope of these proposals are discussed in more detail under Standards 5 and 6, below.
- 3.40** The Ministerial Regulation and The Exemption Regulation feature sunset clauses and will expire on 30 June 2028 unless reviewed and repassed, with amendments if deemed necessary.



## 4. WHAT WE FOUND

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- 4.1** We found an organisation eager to be effective as a regulator and open to feedback. The staff team who engaged with us as part of the review were open, helpful and positive and clearly committed to their work.
- 4.2** It is not uncommon in regulators to find an internal engagement with legislation, rules and procedures, rather than a focus on the outcomes intended; the protection of consumers and the public. We observed this too in our interaction with RECA; that is an internal concern with following process rather than achieving the best outcome. In our observation of meetings and discussions, the importance of consumer protection was rarely mentioned nor was it embedded in decisions. We give some examples of this in the evidence for the Standards below.
- 4.3** RECA has many well-established policies and procedures, and staff are aware of them and follow them. We found a few instances where this was not the case, for instance, the checking of identity documents in registration and some examination commitments set out in the Examination Blueprint that are not being met but overall policies are understood and implemented. Consistent record keeping and diligent case file management is crucial to being able to justify decisions later and to having accurate data for analysis and learning.
- 4.4** There was some evidence of poor internal communication between teams. We were told staff in one or other team were unaware of what others were doing and that expertise was not always shared across the organisation. People told us that there were instances that they felt they did not know what was happening in other parts of RECA, because it was not their responsibility or because it was above their pay grade. It is important all parts of the regulator work in concert so that those setting professional standards are learning from complaints, that policy makers understand trends in behaviours by the industry, that registration is aware of its responsibility to protect consumers and that all the data the organisation holds is available to the Industry Councils and the Board to inform their decision-making.
- 4.5** Although RECA tries hard to consult externally and its website provides a mass of guidance both to licensees and to the public, overall there is a lack of transparency about how it conducts itself or exposes itself to external scrutiny. RECA is a public body. It is accountable, first and foremost, to the various publics in Alberta who use the services of the individuals and businesses that it regulates. We were surprised that the Board and Industry Councils do not meet, at least part of the time, in public and that the legislation does not mandate this. Although agendas and minutes are available, background papers are not available. It is also difficult to find the names of the people who lead RECA. It takes four clicks from 'About RECA' on the home page to find the names of the board members. There is no biographical information about them. Similarly with the senior leadership team, nor does it seem possible to contact them directly. Lack of openness in public bodies undermines the confidence of both consumers and licensees and those who represent them.



- 4.6** It was also not clear to us how some important policy directions came about. The process for decision making and the evidence used to inform decision making was not consistently clear to us. Similar to the previous point, a lack of transparency in these areas may serve to undermine or cause doubt in the process and outcomes of decision making.
- 4.7** As part of our review, we spoke to four real estate associations and one representing mortgage brokers in Alberta who represent different or multiple sectors of the industry. All but one of these stakeholders said that they had a good and constructive relationship with RECA. One said that it did not. Such criticisms as were made, although not by all, were about the current exam regime, including its cost to licensees and inconsistency of content, the lack of feedback on consultations, inconsistent decision-making particularly with complaints, and over extension/complication of regulation.
- 4.8** We acknowledge that RECA has been created out of a long history of difficulty in establishing an effective model of oversight and regulation of the real estate industries in Alberta and that relationships with industry associations and indeed with the provincial government have not always been easy. In our view, this past casts an unhelpful shadow over the present so that RECA demonstrates a lack of confidence in its role and may be too concerned with external criticism and its reputation. It works for the public, not the industry. Its reputation will look after itself if it performs efficiently and effectively and is more transparent about how it makes decisions and what justifies them as in the public interest.



## 5. ASSESSMENT AGAINST THE STANDARDS OF GOOD REGULATION

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### Standard 1

The regulator provides accurate, fully accessible information about its licensees, regulatory requirements, industry standards and rules, guidance, processes, and decisions.

- 5.1.1 RECA provides considerable information and specific resources about its regulatory functions and related resources through its website. The homepage provides a variety of links to information, guides and documents directed to consumers, licensees and learners, and course providers, as well as information about RECA and its regulatory functions such as complaints and discipline.
- 5.1.2 Clicking on or hovering over the homepage links expands information on the particular topic area and lists related resources. Examples include *Buying a Home*, *Licensing & Renewals*, *Industry Updates and Course Changes*, *Decisions & Appeals*, *Legislation and Standards*. These links lead to additional resources and information such as *Home Buyer's Guide*, *Pre-Licensing Education*, *Examination Blueprint*, *Guide to Investigations for Licensees*, *Real Estate Act & Rules*, *Publications & Resources*.
- 5.1.3 The website also provides access to a range of online resources with information about RECA itself and its processes. A recent edition of *The Regulator*, a quarterly web magazine for licensees, included content about the on-going Rules Review, introduction of the Stakeholder Engagement team, questions to a Regulatory Complaints Advisor on reporting obligations, an article on mortgage fraud, and information on consent and confidentiality. We found that most resources provide RECA contact information for additional follow up and questions.
- 5.1.4 We were informed that a website redesign is currently underway, with a planned launch in the Fall of 2024. The redesign is intended to shift the website's primary focus to consumers and to make it easier for consumers to find information. We see this as an opportunity for RECA to reinforce consumers' access to relevant information and to contact RECA if they need to.
- 5.1.5 **Conclusion:** This standard is met.

### Standard 2

The regulator is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.

- 5.2.1 RECA states on the homepage of the website that it regulates real estate licensees in Alberta as an independent governing authority who sets, regulates and enforces standards across the province.



- 5.2.2** However, its consumer protection and public protection mandate is not immediately apparent and requires additional navigation to find a reference. For instance, clicking on the *About RECA* link brings a user to a page with a similar statement to the one identified above with the addition, 'Learn more about RECA and its role in consumer protection'. It is not immediately clear which sub-link provides additional information about this role and mandate, requiring further navigation.
- 5.2.3** Clicking the link to *What RECA Does* page provides information on RECA as an independent governing authority, and additional information about its role and a mandate, 'RECA acts in the public interest to promote and protect consumer interests, support competition in real estate services, and promote market integrity'. This is followed by, 'RECA licenses and regulates real estate agents, mortgage brokers, property managers, and condominium managers to enhance public protection.'
- 5.2.4** The *Consumers* link opens a page with this headline statement: 'Buying or selling a property is one the most important financial decisions a consumer will make. The more you know and understand, the more likely you'll be satisfied with the results.' While this may be an important statement, RECA's *consumer protection* role is not immediately apparent on the Consumers landing page, and additional navigation is required. The *Real Estate 101* page provides a link to *RECA's consumer protection mandate*, which details how RECA protects consumers, such as through establishing education standards, setting standards, and investigating complaints. This page also provides an email link to RECA to answer consumer questions.
- 5.2.5** During our observation of a Board meeting, we noted an absence of reference to or discussions about, consumer protection. This was the case throughout the agenda which included items that were relevant to the public protection mandate. It was notable the meeting itself was not public, nor were the meeting materials, resulting in the public's inability to observe the Board. Similarly, we observed several regulatory function meetings where discussions focused on the administration of processes with an absence of discussion how or why activities supported achieving the mandate.
- 5.2.6** In terms of learning between regulatory functions, we observed a variety of practices. There were instances of good practice such as the teaming process between the investigations and conduct functions (see Standard 15, below). In some areas, there was an expressed desire to improve cross-team working such as the identification of trends from practice reviews to inform the education of and communication to licensees (see Standard 13, below). There were areas where obvious opportunities to work across teams appear to have been overlooked, such as Registration team's minimal involvement in the redesign of myRECA.
- 5.2.7** **Conclusion:** This standard is partially met.





## Standard 3

**The regulator understands the diversity of its licensees and clients/consumers and of others who interact with it and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people.**

- 5.3.1** In RECA's 2022/2023 Annual Report, the Board Chair identified 'Protecting Vulnerable Albertans' as a strategic priority. This focused on increasing consumer awareness about the protections RECA offers to vulnerable populations, including seniors and new Canadians, at risk of being targeted for fraud.
- 5.3.2** RECA has created consumer-focused buyer and seller guides on its website with information about financial readiness, finding and working with licensees, negotiations, what happens at closing, and addressing concerns. The guidebooks are available in English, French, Spanish, Punjabi, Simplified Chinese, and Ukrainian.
- 5.3.3** RECA told us of activities to raise awareness of resources with various groups such as paid advertising on RED FM ('Reflecting Ethnic Diversity') and Fairchild Radio in Calgary and Edmonton, radio stations that provide multicultural programming in several languages including Punjabi, Hindi, Mandarin and Cantonese.
- 5.3.4** Staff told us that most of the complaints RECA receives are from complainants who are new to the country. Along with the activities listed above, we were also informed of RECA's participation in other consumer-focused activities including, Fraud Month in collaboration with the provincial Fraud Prevention Committee, workshops with the Calgary Centre for Newcomers (primarily in Ukrainian with live translation), monthly seminars with the Edmonton Public Library, and meetings with the South Asian Elders Group.
- 5.3.5** We acknowledge the efforts RECA has made to support the protection of vulnerable consumer groups. However, it was not clear to us if RECA plans to continue these efforts to identify other groups who may benefit from the kind of supports previously described or expanding translated resources for other RECA functions such as the complaints process. We are also not aware of any activities or considerations that relate to the diversity of licensees who engage RECA's processes.
- 5.3.6** **Conclusion:** This standard is partially met.

## Standard 4

**The regulator reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public inquiries and other relevant reports.**

- 5.4.1** RECA publishes an Annual Report which includes the audited financial statements. As with previous reports, the 2022/2023 report includes messaging from the organization's Board Chair and CEO, information about RECA and its governance structure, Strategic Initiatives, Consumer Protection,



Registration services, Investigations, the Real Estate Assurance Fund, Stakeholder engagement and senior leadership Compensation.

- 5.4.2** Registration services and Investigations data is highlighted that reflects specific outcomes (Registration: refused, cancelled, suspended, conditions applied, lifetime withdrawals approved; Investigations: Reasons for Refusal and Complaint/Investigation outcomes).
- 5.4.3** For Investigations, introductory comments in the Report note RECA's shift from an enforcement approach to an educational approach where minor concerns are raised about licensees. This is intended to resolve matters in a 'timely manner'. The change also allows the investigations team to focus on addressing serious misconduct issues. RECA staff informed us this change aligns with their right-touch approach to enforcement processes.
- 5.4.4** The data provided on Investigations offers a limited public-facing picture of current outcomes and regulatory performance. It was unclear to us, in the absence of additional data, if the number of education focused outcomes from investigations has increased or not, and if this has had an impact on the management of cases. Similarly, it was also unclear whether these outcomes are being addressed in a 'timely manner' in the absence of a measure or clarity on what RECA means by a timely address.
- 5.4.5** We observed the 2021/2022 Annual Report provided data for two years, allowing for a clearer picture of the number of matters addressed and changes over that period. Timeline data is also not provided in the 2022/2023 report.
- 5.4.6** As mentioned above, when we observed a Board of Directors meeting, it did not include updates or data on the regulatory function performance. We are also not aware of a formal process for reporting corporate complaints or how RECA addresses concerns about its processes or staff.
- 5.4.7** **Conclusion:** This standard is partially met.

## Standard 5

**The regulator consults and works with all relevant stakeholders across all its functions to identify and manage risks to clients/consumers in respect of its licensees.**

- 5.5.1** RECA has created a publicly available Stakeholder Engagement Policy framed by its role and mandate. The purpose of the Policy is to build consumer trust and confidence in licensees by setting and enforcing standards and education requirements, providing services to support business, promoting the integrity of the industry, and taking action against mortgage fraud. RECA has five principles for Stakeholder Engagement: timely, meaningful, transparent, consistent and equal, and effective.
- 5.5.2** RECA has identified its various stakeholder groups including consumers associations, licensees, industry associations, pre-licensing learners, education providers, and the Ministry of Service Alberta. RECA also



sets out the specific contacts with its stakeholder groups, the purpose of engagements, and monitors these contacts to ensure currency. The 2022/2023 Annual Report provides some information and data about engagements with various groups such as hosted events, presentations and forums.

- 5.5.3** A current example of consultation is the Rules Review. At the time of our review, RECA was nearing the end of Phase two of a review of its Rules, the requirements for licensees and practice standards required for consumer protection. In its materials, RECA notes the Rules came into effect in October 2006 and have had several focused changes since that time. The current review is intended to be a comprehensive review of the Rules.
- 5.5.4** The Rules Review project is implemented in three phased activities, and its progress is reported on publicly. Throughout phases one and two, licensee feedback and engagements have included townhalls, broker forums, open-houses with Industry Councils and meetings with RECA leadership.
- 5.5.5** The RECA website provides information about the overall approach and progress of the Rules Review, a Regulatory Excellence priority identified in the Strategic Plan. The three phases are identified along with timelines, though we heard the timelines for completion of the review may be extended:
- + **Phase 1:** stakeholders provided feedback on current rules (May 2023)
  - + **Phase 2:** licensees and stakeholder provided feedback on proposed Rules informed by phase 1 feedback (June 2024)
  - + **Phase 3:** stakeholders provide feedback on proposed Rules informed by phase 2 feedback (November 2024)
- 5.5.6** Publicly available Discussion Papers provide information on the rationale, scope and updates about the review. Proposed changes are detailed in the papers. For example, a review of the current licensing structure and proposed changes are noted and highlights of stakeholder feedback on the proposed changes. Following this content, a series of related questions about the proposed changes of the licensing framework are asked, using a 1 to 5 scale and request for reasoning. This approach for feedback is the same used for other proposed Rules changes (e.g., Principal and associate mortgage brokers, Teams, Notifications, Client/Customer Relationship, Service Agreements, Protection of Personal Information, Brokerage Oversight).
- 5.5.7** Feedback opportunities included survey links sent to all licensees and stakeholders, requests for written submissions from associations and consumer groups, and brokers. RECA hosted virtual townhalls on the proposed changes including in November 2023, March 2024, and May 2024. Videos for those townhalls are posted on the website along with the list of questions and comments from the sessions.
- 5.5.8** Consumer feedback about the Rules was supported by a third-party consumer opinion agency and included focus groups for each phase. Consumer groups were made up of different demographics, from different areas of the province, and had experience with licensee interaction.



- 5.5.9** There have been a variety of engagements and consultations over time, with some of the feedback reflected in the materials such as the Discussion papers. However, we found the publicly available feedback that was included in the information lacked specificity on what feedback was received and from which stakeholders, including divergent views about proposed changes, and how feedback was being accounted for in the process.
- 5.5.10** Several external stakeholders told us that RECA's engagement had improved over the past few years, including direct engagements from RECA leadership and staff seeking feedback, and that these consultations were positive and appreciated. Examples cited included recent Rules and competency reviews. These external stakeholders hope RECA continues to build on its current engagement practices. We also heard feedback that it was not clear how feedback on the Rules review had been used and that the consultation process was complicated and lacked transparency.
- 5.5.11 Conclusion:** This standard is partially met.

## Standard 6

**The regulator maintains up-to-date standards and rules for licensees which are kept under review and prioritises protection of consumers and the public.**

- 5.6.1** *The Real Estate Act Rules (Rules)* set out the requirements for licensees, business activities, standards of practice and requirements for consumer protection. Industry Councils create and amend the Rules. According to RECA's information, the Rules came into effect in 2006, and have been modified since that time, however the current Rules Review is a comprehensive review.
- 5.6.2** The Review is being led by a Board-appointed Rules Review Steering Committee consisting of licensee representatives from each Industry Council with a public member as Chair, and with an anticipated completion date of November 2024. The Committee established the consultation framework for feedback set out in the previous standard. According to the Act, the Industry Councils create Rules. Under the Real Estate Ministerial Regulation, the Minister of Service Alberta retains the authority to approve new Rules proposed by the Industry Councils until June 30, 2025.
- 5.6.3** Many of the details of the review are detailed in Standard 5, (above) including RECA's multi-phased engagements. The proposals relevant to the scope of this review include:
- + Aligning the licensing framework with Industry Council governance structure
  - + Allowing licensees to register with multiple brokerages for the same industry sector
  - + Changes to licensing classes
  - + The level of and use of administrative penalties.



**5.6.4** We recognize RECA is currently reviewing the Rules and considering updates. We also noted from RECA's materials the Rules have only received incremental change since coming into effect in October 2006. It was not clear to us what informed decisions related to the scope and approach for the comprehensive review or a clearly stated rationale for how the review prioritizes public protection. We are also not aware of an existing cycle of evaluation or review of the Rules to ensure they remain current, though RECA staff have indicated this will be addressed as part of the on-going review.

**5.6.5 Conclusion:** This standard is partially met.

## Standard 7

**The regulator provides guidance to help licensees apply the standards and rules and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises protection of clients/consumers.**

**5.7.1** The About *RECA* tab at the top of RECA's homepage provides links to the Real Estate Act, Rules and Bylaws. The *Licensees & Learners* tab also provides links to the legislation and additional links to resources that cascade from additional links including *Tools & Resources, Guides & Industry Tools, Forms and Fees,* and *Information Bulletins*. Content is available in different formats such as checklists, FAQs and brochures.

**5.7.2** The focus of resources is framed as support for licensees to practice in accordance with the Act and Rules. RECA's quarterly publication (*The Regulator*) includes information and updates relevant to all licensees including professional practice and industry specific information (highlighted in Standard 1).

**5.7.3** One source of confusion identified by several Associations was RECA's *Residential Measurement Standard*. We were informed the rationale or evidence for RECA's involvement in such a specific area of focus was not clear to these stakeholders and that resources were already available through other organizations, which could be a source of confusion for licensees. We were told RECA staff have been open to receiving feedback on the Standard and have been reaching out to stakeholders to discuss further.

**5.7.4 Conclusion:** This standard is partially met.

## Standard 8

**The regulator maintains up-to-date standards for education and training which are kept under review and prioritise client/consumer protection.**

**5.8.1** The standards for education and training arise from the RECA Rules which detail the standards of practice for each industry sector alongside the accounting, records and reporting requirements. These are set by the Industry Councils, under powers in the Real Estate Act. The Rules also set out an Education Code of Conduct for Learners. RECA has also published its Education Philosophy, under powers in the Bylaws.



- 5.8.2** There are no stand-alone standards of education and training, but the Industry Councils set education and training requirements through Competency Exam Blueprints for the exams required for licensing in each sector. These are detailed and lengthy documents that outline what education and training courses should teach in preparation for exams set by RECA.
- 5.8.3** Of the four Industry Councils, two have Education Advisory Committees with members including representatives from current course providers. RECA staff can attend and support the committees' work. The Residential Real Estate education advisory committee also allows for the appointment of a course design expert.
- 5.8.4** RECA publishes guidance for education and training providers through its website to help providers understand standards and requirements for pre-licensing education. This includes competency profiles, required course structures and materials, and the education framework.
- 5.8.5** RECA shared some internal mapping of exam questions to specific rules, acts and regulations, and competencies. We understand this work is continuing.
- 5.8.6** RECA operates a credentialling process to assess applications from course providers for recognition of courses, with RECA staff supporting Industry Councils' sign-off process. This approach is centred on a self-assessment from the provider. There was some scrutiny of applications we reviewed in detail, but it was not evident that courses were evaluated against the competency exam blueprints. Our interpretation of section 11(1)(l.1) of the Real Estate Act, which states the 'Board may make bylaws ... respecting the approval of and ongoing oversight with respect to ... the delivery of education by a person or organization to licensees or prospective licensees for the purpose of acquiring, maintaining, reinstating or renewing a licence;' is that Board has the authority to make bylaws to assure the quality of education programs and hold course providers to standards. This authority appears not to be limited to initial approval, but to ongoing oversight.
- 5.8.7** A ministerial regulation in 2022 places a restriction on RECA providing 'education services to licensees' from December 2022. Although our interpretation of the regulation differs, we heard that this amendment has had the effect of limiting the scope of RECA's credentialling activity. Ultimately, we do not believe that this standard can be met unless RECA is able to audit and ensure the quality of the courses it recognizes. This function is critical to public protection and protects prospective licensees.
- 5.8.8** We did not see a schedule for regular review of competency exam blueprints, or for coordination between different industry councils when there was a shared interest in revising and updating a blueprint.
- 5.8.9** **Conclusion:** This standard is partially met.



## Standard 9

The regulator has a proportionate and transparent mechanism for assuring itself that the educational providers and programs it oversees are delivering students and applicants meets the regulator's requirements for registration and takes action where its assurance activities identify concerns either about training or wider consumer and public protection.

- 5.9.1** RECA's website presents pre-licensing education to potential providers in the context of a 'marketplace' and state their commitment to providing a credentialing framework that achieves, among other things, 'a fair and competitive pre-licensing education marketplace'.
- 5.9.2** RECA's Education Philosophy states its commitment to 'ensuring courses prepare prospective licensees in providing competent service to protect the public.' Beyond this, there is little overt demonstration of a focus on client and consumer protection. The main focus of the education philosophy is on learners and course providers.
- 5.9.3** Significant emphasis is placed on website guidance for learners to exercise due diligence around course quality: 'select a course you believe will prepare you to provide competent service', not a consumer-focused service. Given the emphasis on a market for education, it is surprising that there is no process to protect learners in the event of a provider failure.
- 5.9.4** As noted above (Standard 8), RECA's website provides a range of guidance and support for course providers seeking recognition as an education and training provider. The credentialing process to assess prospective providers is relatively light touch. We understand that a new step has recently been added to allow for web-based research into a new applicant. However, the files we reviewed showed this stage was also relatively minimal.
- 5.9.5** Provider recognition applications require potential providers to attest that they will comply with RECA's education and training requirements. Applicants are not required to demonstrate compliance at this stage. In the files we reviewed, this process was followed in all instances, but on occasion some information was missing.
- 5.9.6** The process for course recognition follows a similar approach, relying on providers' self-assessments of competency mappings. In the files we reviewed, there was no indication that providers' assessments were challenged, or additional information sought by RECA. We understand that no course or provider has ever been denied approval. RECA's advice on *How to Choose a Course Provider* states that its recognition process does not regulate course quality.
- 5.9.7** RECA told us that the 2022 Ministerial Regulation (see Standard 8, above) has had the effect of restricting RECA's power to audit courses or providers. Once awarded, RECA approval for courses and providers is open-ended and there is no requirement for renewal, review or re-accreditation. There is little formal ongoing oversight of courses of providers. This is not our interpretation of the legislation.



- 5.9.8** Any updates or revisions of course content appears to be triggered by changes in legislation or by ad hoc feedback from courses or learners. There is no regular collection of feedback from learners or courses by RECA or the Industry Councils but we understand surveys may be considered in the future. Some stakeholders told us that the quality and cost of courses were variable.
- 5.9.9** RECA sets the exams that learners are required to take to be eligible for licensing. No documentation was available to explain how the pass scores were set or how many resits a learner may attempt. The Education Code of Conduct (mentioned under Standard 8) was reported as useful in instances of attempts to cheat in exams.
- 5.9.10** RECA does undertake some analysis of exam results by provider, and some reporting to course providers has begun recently. The data published on RECA's website shows pass rates and average marks for individual courses and providers.
- 5.9.11** RECA told us their exams are based on NCCA and ISO 17204 standards. The RECA Examination Blueprint makes a number of commitments around the exams process, but we understand that not all commitments are being met, such as publication of independent psychometric analysis and an appeals process.
- 5.9.12** **Conclusion:** This standard is not met.

## Standard 10

**The regulator maintains and publishes an accurate register of those who meet its requirements including any restrictions on their practice.**

- 5.10.1** RECA's website provides access to a Find a Licensee function. Users can search by licensee name, or search by Brokerage and then by licensee. The format and content seem adequate, and the name search function is relatively easy to use.
- 5.10.2** The online register identifies where licensees are currently subject to suspensions or cancellations for disciplinary reasons. There is no note in the online register of administrative penalties taken as a result of conduct concerns, or hearing panel decisions resulting in fines or other sanctions. There is no history of previous sanctions available through the register records for individual licensees. This information is available in the *Complaints and Discipline* section of the website. Lifetime withdrawals from licensing can be found elsewhere on the website.
- 5.10.3** What is available on the register appears complete, in line with RECA's definition of restrictions on practice, though we found other relevant information difficult to find and may be a source of challenge for consumers to easily locate. There are other findings against licensees which would be of interest to consumers which are not on the register.
- 5.10.4** **Conclusion:** This standard is met.





## Standard 11

The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.

- 5.11.1** The RECA website provides a large amount of information to prospective licensees for all types of applicants, including step by step guides and detailed information regarding eligibility criteria, complemented by virtual information sessions.
- 5.11.2** Similar information is provided to guide annual renewal applications. This guidance is complemented by procedural manuals for registration staff, with references to the authority given in the Rules.
- 5.11.3** Our review of registration files indicated that RECA's internal targets for processing applications are generally met, and decisions are made in a timely manner. The myRECA website provides updates on processing times and allows applicants to see the status of their application in real time.
- 5.11.4** Our review of a sample of registration applications revealed inconsistency in record keeping, document verification, and communication trails. RECA's data retention approach means that all documents containing any Personally Identifiable Information is destroyed immediately upon review, so pertinent information is manually transcribed to the file which in turn can increase inconsistency and the risk of error.
- 5.11.5** RECA's internal Customer Relationship Management (CRM) system, used to manage applications and licensee profiles, provides an opportunity to consistently record application information, but in some of the cases we reviewed, this functionality was not used consistently. Our review also revealed that on occasion some published registration requirements were not adhered to, for example not requiring two forms of identity documentation, or not respecting recency of licensing requirements for reinstatements. We also saw two cases where applications were approved but on further review were revoked. It was not clear if these were administrative errors or indicated a changed view of the applicant's eligibility.
- 5.11.6** We saw no policy or criteria to guide applications for education or experience exemptions; these decisions are made at the Registrar's discretion.
- 5.11.7** The process for appealing decisions is detailed in the *Hearing and Appeal Practice and Procedure Guidelines*. We were told that there have in fact been no appeals about registration decisions. Where requirements are not met in some types of applications, they are left 'pending' with the onus on the applicant to provide the necessary documentation. Not closing the application means that RECA avoids the possibility of an appeal in these cases.
- 5.11.8** RECA shared a recent internal review of eligibility requirements. The majority of the challenges in the report were noted as administrative in nature, representing inconvenience to RECA or applicants, and the recommendations for change made in the report were not supported with analysis or rationale.



**5.11.9** We were told that despite changes under the Real Estate Act and the Rules to establish property management as separate licensing classes, current practice is to continue to treat property management as a sector of the Real Estate industry. If someone applies for a Property Management Brokerage license under the Act, there is not a process established to deal with such an application.

**5.11.10 Conclusion:** This standard is partially met.

## Standard 12

**Risk of harm to clients/consumers and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.**

- 5.12.1** Section 17 of the Real Estate Act identifies that no one can trade in real estate as a real estate broker, deal as mortgage broker, act as a property manager, advertise or hold themselves out as a mortgage broker, real estate broker or property manager unless they hold the appropriate licence issued by the relevant Industry Council.
- 5.12.2** On its website, RECA clearly states that unlicensed activity can lead to consumers not being protected by regulatory action and can result in fines or sanction against those who engage in activities that require a licence. In the web article *Be Aware of Unlicensed Practice*, consequences to consumers of unlicensed practice are listed including not being protected by the Consumer Protection Fund and not receiving the expertise of a licensed person with the necessary education and experience. The article provides a link to *Case Summaries* that provide multi-year highlights of various types of case outcomes, including penalties for unlicensed activity.
- 5.12.3** To support consumers, RECA has a *Guide To Making a Complaint: Unlicensed Practice* providing information about RECA's role and what activities are required to become licensed. Consumers are encouraged to check if an individual or brokerage is licensed, and a link is provided to the Licensee Search Tool, as well as a link to the complaint form. Consumers are provided with a phone number of Information Services for guidance on RECA activities and jurisdiction.
- 5.12.4** *Consumer Alert* is a news release on the website that names individuals who have participated in unlicensed activities, a description of the unlicensed activities and the action RECA took to address the activities. From our review, actions include issuing cease and desist notices, administrative penalties (such as fines), seeking and being granted interim orders by the court. The alerts include *Protect Yourself* information with a link to the *Find a Licensee* search tool and instructions on how to use the tool. There are also links to the details of the administrative penalties. We also observed some alerts included information about known aliases that have been used by the unlicensed individual.
- 5.12.5** As part of an Investigations Intake meeting, we observed a discussion relating to unlicensed activities. Specifically, RECA staff were reviewing recent activities of an individual with a history of being



sanctioned for unlicensed activities. While no unlicensed activities had recently been identified, the intake team agreed to monitor the individual given their previous behaviour and the possibility of risk to consumers.

**5.12.6 Conclusion:** This standard is met.

## Standard 13

**The regulator has proportionate requirements to satisfy itself that licensees continue to maintain standards required for competent practice**

- 5.13.1** There are no ongoing requirements on individual licensees to complete periodic continuing education or to revalidate their practice from time to time. On occasion, RECA has made annual renewal of licences dependent on completion of specific education and training around recent developments in industry sectors, such as mortgage brokering. However, we also heard that such requirements may be waived.
- 5.13.2** RECA's approach to satisfying itself that brokerages continue to practice competently is centred on its practice review function. RECA told us there were four types of practice review: every broker within 12 months of opening, cyclical reviews every 3-5 years, courtesy reviews on request, and follow up reviews.
- 5.13.3** RECA's power to deliver a practice review function comes from the Act. There are no further rules, regulations or bylaws that prescribe the operation of this function, and no internal policies were shared with us. RECA's website does provide licensees with guidance on the practice review, along with a step-by-step guide to the process. This guidance emphasises compliance with the rules, but also the value that the Practice Review offers to licensees and brokerages.
- 5.13.4** In the stated purposes, there is no reference to public protection or the public interest. The first objective listed is 'to provide service to industry members', the second is 'to promote compliance with the Real Estate Act and the Rules' and the third 'to reduce the number of claims against the Assurance Fund'. While this may have the desired effect of consumer protection, the explanatory statement that follows speaks to non-compliance as potentially 'adversely affect(ing) the public's view of our industry'. There is no information aimed at consumers or clients, and the results of practice reviews are not published.
- 5.13.5** Quarterly reports on completed practice reviews are shared with the Registrar. More recently RECA has begun to analyse its practice review findings and it intends to share the results in RECA's quarterly newsletter. We were told the ambition is also to use this analysis to identify areas requiring extra attention, including through education and training.
- 5.13.6** We reviewed a sample of practice review files. This highlighted issues with consistency in the approach to practice reviews and in record keeping. A practice review concludes with a completion letter, where RECA shares any concerns it has with the broker. There is no internal target timeline for sending completion letters, and while most in our sample were issued 3-8 weeks post visit, some were found to



exceed five months. Brokers are asked to respond within three weeks outlining how they have or intend to address the issues raised in the completion letter. We saw no evidence of further follow-up by RECA. RECA told us that lack of resources meant any subsequent follow-up was reserved for 'significant' issues.

- 5.13.7** RECA carry out post-review surveys to assess RECA staff's conduct and professionalism, and recent results were positive. RECA officers were professional, provided clear and constructive explanations of results, provided recommendations to achieve greater compliance, and satisfactorily responded to questions.
- 5.13.8 Conclusion:** This standard is partially met.

## Standard 14

### The regulator enables anyone to raise a concern about a licensee.

- 5.14.1** The Real Estate Act (section 37) sets out RECA's accountability for ensuring complaints can be made about the conduct of licensees. RECA has a comprehensive list of resources specifically tailored to making a complaint, beginning with a *Complaints & Discipline* tab on the homepage of the website. Following this link provides additional information about *Submitting a Complaint*, access to an online complaint form with the specific details required from a complaint, who may be consumers, licensees or other sources.
- 5.14.2** We observed repeated references in RECA materials and the website encouraging reaching out to RECA staff for general inquiries and information about the complaints process, through provided email and phone contact information. RECA staff reported they have a practice of assisting those who require additional support to make a complaint includes speaking directly to those who may have questions and providing assistance, if requested. There does not appear to be a policy related to accommodations. Requests are addressed on an ad hoc basis specific to individual circumstances.
- 5.14.3** A detailed *Guide to Making a Complaint* is available on the RECA website providing a user-friendly walk-through on how to make a complaint, information about RECA's jurisdiction and legislation, the complaints process, licensee notification, possible decisions and access to an appeal process. The guide also provides examples to illustrate the kind of licensee conduct that has that has been accepted as a complaint.
- 5.14.4** RECA also has an anonymous fraud tip complaint form for those who wish to provide information about mortgage fraud. Along with a link to a unique form for anonymous complaints, that includes a clear statement that RECA cannot guarantee anonymity in the process, depending on how a matter may need to be addressed.
- 5.14.5** It was not apparent to us that RECA has processes to assess the effectiveness or seek feedback about the complaints process, access to the process or its communication resources. We understand RECA has in the past surveyed complainants but no longer does this.
- 5.14.6 Conclusion:** This standard is met.



## Standard 15

**The regulator's processes for assessing, investigating and hearing cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.**

- 5.15.1** RECA has considerable information on its website for the public and others to bring concerns forward, including details about process, possible outcomes, assessment thresholds and how to contact the organization to provide concerns. There are guides with detailed information about investigations (*Guide to Investigations: for Consumers*, *Guide to Investigations: for Licensees*) that clearly set out the process including the purpose of investigations, RECA's authority and powers of an investigator, investigating unlicensed persons, notification requirements, the voluntary resolution process, possible outcomes and FAQs.
- 5.15.2** Investigation policies include 'Foundations of Investigations' (e.g., transparent, timely, procedurally fair) and the relevant requirements set out in the Act, Rules and Bylaws. There are also investigation procedures resources (e.g., case notebook management, evidence log instructions, interviewing, initial complaint screening assessment) that support consistency with investigation processes.
- 5.15.3** RECA has clear policies and procedures that detail how a complaint or information received is assessed beginning with Review 1 which focuses on an initial consideration of information and possible information gaps (e.g., assesses jurisdiction, prior history of licensee, suitability for alternative complaint resolution (ACR), review relevant documentation). The subsequent Review 2 assesses additional information that has been gathered since the initial review and determines if there is information to support a breach of the legislation which informs a recommendation to the Registrar about the seriousness of matter: Level 1 (minor allegations not deserving of sanction, which would result in publication on RECA's website, allow RECA to focus on advising about best practices and education focus); Level 2 or 3 (increasingly serious matters, are likely to be referred to a hearing panel such as fraud).
- 5.15.4** We observed intake assessment and investigation team meetings which appeared consistent with established policies and procedures. Meetings included initial assessments of information, citation of the relevant Rules and considerations of consumer risk. We observed detailed assessment discussions with teams. In one instance, there was a discussion that initial assessment should include considering if a new matter may be associated with existing cases, involving the same licensee or complainant, allowing for a broader assessment of a matter which may also inform investigator allocation.
- 5.15.5** Conduct Counsel has detailed checklists for agreement and contested hearings that set out the requirements of processes and activities (e.g., setting up files, notification, disclosure, staff accountabilities, witnesses, hearing preparation, joint agreements, contested hearings, hearing phases and file closer). There are also documents that list step-by-step activities and operations (e.g., lawyers file review with investigator, disclosure review, self-represented licensees, communications with complainant).



- 5.15.6** There is a Teaming policy that supports consultation between the Investigations and Conduct Counsel teams, for the purpose of information sharing and assessment of higher risk investigation matters (e.g., fraud), that may be referred to a hearing. From our observations, these consultations provided an opportunity to review of a matter under investigation, risk to consumers, discussion about the specific Rules relevant to the issues being investigated, and to consider what evidence may be relevant for the investigation, and a possible referral to a Hearing. This practice of information sharing appears to be a good practice of sharing assessment considerations between the Investigation and Conduct Counsel function, supporting efficient processes by ensuring relevant information is gathered at the earlier stage and supporting later stages of conduct processes.
- 5.15.7** Hearings and Appeal information is available on the website including a detailed *Hearing and Appeal Practice and Procedure Guide* with considerable information about the processes (e.g., the legislative authority, conduct hearing processes and procedures, decisions, sanctions, appeals, review of Registrar decisions). Along with this guide, additional resources include *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*, *RECA Self-Represented Program* and the schedule of upcoming and past hearings.
- 5.15.8** We reviewed random samples of Investigation, Conduct Counsel and Hearings cases and observed several related meetings for each of the regulatory functions, including investigations meetings and viewing public hearings. We observed many consistencies between each regulatory function's policy and procedures, citation of the Rules and legislation, how staff support the operations for each function, how committee Chairs and committee members fulfil their roles.
- 5.15.9** In the case of one Conduct Counsel matter reviewed as part of our random selection, the file had been repeatedly delayed due to re-assignment between three consecutive lawyers, which required time for each lawyer to review and prepare the case. We were informed this was an unusual circumstance related to staff retention and that RECA has taken steps to address this issue.
- 5.15.10** The Investigation function does not appear to have set timelines, in legislation or in policy. We understand timelines have been considered over years but were told the length of time required to complete a matter depends on various factors such as complexity, cooperation by the parties and document retrieval which impact the ability to determine clear timelines.
- 5.15.11** During Investigations related meetings and interviews with staff, we often heard reference to how busy staff were and the challenges of managing an increasing volume of matters requiring address. We also heard the staff express how they were concerned that some matters were not being addressed in a timely fashion.
- 5.15.12** Data we reviewed indicated that RECA has seen increases in the number of complaints over recent years (from approximately 80 a month three years ago to approximately 100 a month more currently). While Investigations resources prioritize Level 2 and 3 matters (serious misconduct such as fraud), we



understand the less serious Level 1 matters are delayed or placed 'on hold' until staff resources are available to address these matters.

- 5.15.13** Data reviewed indicated timelines for Level 1 files waiting to be assigned steadily increased between March 2022 and March 2024 (from approximately 150 days to approximately 350 days). According to our recent review of RECA data, there are 141 open Level 1 files, with an average number of 217 days open, and the range of days open is from 5-1120 days of matter waiting to be assigned. This is not satisfactory.
- 5.15.14** We understand RECA has employed several strategies to reduce these volumes and increasing timelines. These include the addition of a new investigator resource and the new right-touch approach with enforcement matters, addressing lower risk complaints through an educational approach rather than proceeding to an investigation and the need to put a matter 'on hold'.
- 5.15.15** RECA is also currently developing a new guide for brokers which is intended to support addressing issues and consumer dissatisfaction proactively, which may reduce the need for engaging RECA's complaints and investigations processes.
- 5.15.16** Some external feedback indicated the investigations processes lacked transparency, specifically RECA's communication to licensees about the status of a matter being complained about or investigated, and clear rationale for the actions being taken, such as issuing a sanction. There was acknowledgement that licensees may not like the experience of being investigated by RECA. The feedback suggested more could be done to assist licensees understanding of RECA's role, the investigation process and its outcomes.
- 5.15.17 Conclusion:** This standard is partially met.

## **Standard 16**

**The regulator ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator's standards and rules and the relevant case law and prioritise consumer and public protection.**

- 5.16.1** We reviewed a random sample of Investigation, Conduct Counsel and Hearings cases and observed several related meetings for each of the regulatory functions, including complaint intake meetings and observing public hearings. We noted many consistencies between the functions' policy and procedures, how staff execute the functions, and the evidence found in the selected cases review about decision-making processes.
- 5.16.2** We did find areas of inconsistency and a lack of transparency related to the communication of these processes and decisions to complainants and licensees. We noted occasions of gaps or limited communication to explain decisions, including a request from a complainant for more information about the decision that received no response from RECA. There were instances of decision letters to

complainants and licensees with little to no information about the reasons for a decision or the evidence used to inform the decision with only summary statements provided (e.g., 'there was insufficient evidence', 'no action is warranted' and 'there was a lack of information to support the allegations'). These appear to be gaps in providing sufficient transparency and specificity about the information and rationale for decisions.

- 5.16.3** In reviewing hearing panel decisions, we noted some cases where serious proven and/or admitted allegations (such as fraud, forgery, and trading while not holding the appropriate licence) resulted in sanctions consisting only of financial penalties. In our view, such sanctions are not proportionate to such misconduct and do not sufficiently prioritise consumer protection. Such decisions are also not noted on the licensees' register listings as the register only reflects restrictions on current practice, resulting in situations where consumers may not have access to relevant information about a licensee having recently been found guilty of serious misconduct.
- 5.16.4** Despite the previously mentioned consistency within much of its processes, we found the inconsistencies with decisions lack fairness and proportionality. This informed our conclusion for this standard.
- 5.16.5 Conclusion:** This standard is partially met.

## Standard 17

**The regulator identifies and prioritises all cases which suggest a serious risk to consumers/clients or service users and seeks interim orders where appropriate.**

- 5.17.1** RECA has publicly available information for licensees and consumers that include details on how it assesses the information it receives including aggravating and mitigating factors it considers (e.g., licensee's intentions, significance of consequences, harm to the integrity of the industry).
- 5.17.2** Information about temporary suspension is also available, a process described as rarely used and would be related to conduct of a 'very serious nature' and 'harm to the public'. The process for temporary suspension is described and includes information about the appeal process if a licensee is suspended. In addition, RECA has a policy for *Temporary Suspensions* which includes information about procedural fairness, the importance of reasons to justify suspension and the risk of harm to the public (must be real and not speculative, evidence of probable risk of harm, pattern of misconduct, continuing engagement in conduct). The policy considers the ramifications of temporary suspension on the licensee's livelihood and reputation. It also highlights case law examples where the courts have upheld or overturned interim suspension.
- 5.17.3** From our review, we noted RECA publishes alerts about temporarily suspended licensees, including information that describes what suspension means (when, during an investigation into alleged breaches, RECA determines it is in the public interest to temporarily suspend and individual) and identifies which Rules have been allegedly breached (e.g., notifying the Registrar of any judgement, not engaging in





activities such as abuse, misleading conduct and fraudulent activities). Information also includes the name of the brokerage at the time the conduct occurred and a message to consumers who have an existing client relationship with the licensee to contact RECA.

- 5.17.4** There are policies that detail the prioritization and assignment of serious issues (*Prioritizing Files, Level 2 & 3 files*). Prioritized risk factors are identified for assignment for investigation (e.g., licensee temporary suspension pending outcome of an investigation, serious of issues such as fraud, trust fund breaches, criminal activity, intentional misrepresentation and unlicensed activity). Additional considerations include assessment of interim suspension and the importance of on-going assessment of new information which may result additional factors that change the initial assessment.
- 5.17.5** The Investigations function have detailed procedural, templates and guides for staff related to different types of investigations and compliance matters. Guides identify specific areas of focus (e.g., Rule 34 – license refusal, Rules 41 – Standards of Conduct for Licensees, Rule 42 – Fraudulent or unlawful activities, Rule 44 – Protection of Client Information, etc.). The guides support consistency with investigations, highlight relevant considerations including the Rules, outcome recommendations of investigations and reasons for particular regulatory actions.
- 5.17.6** From our randomly selected file review and meeting observations, we noted consistency with policies and procedures, and the assessment and prioritizing of serious matters.
- 5.17.7 Conclusion:** This standard is met.

## Standard 18

**All parties to a complaint or conduct matter are supported to participate effectively in the process.**

- 5.18.1** RECA provides consumers with detailed and clear resources about the complaints process under the *Submitting a Complaint* tab. *The Online Complaint Form* sets out the information RECA requires for the process, including the ability to upload supporting documents, and provides RECA staff contact information. There are instructive guides about investigations processes for consumers and licensees. An Investigations link provides the step-by-step review of the complaint process.
- 5.18.2** There is detailed information about the *Alternative Complaint Resolution (ACR) Process* that ‘aims to resolve complaints involving minor issues while avoiding formal investigation outcomes.’ From our case reviews we observed the ACR process was appropriately used for lower risk issues (e.g., delayed communication with a consumer, minor documentation errors). From our case review, we observed licensees involved in ACR appeared to appreciate the opportunity to address complainant concerns and resolve issues quickly.
- 5.18.3** While the materials are plentiful and detailed, it does not appear RECA evaluates or seeks feedback on its resources for complainants and licensees, to ensure they support understanding of processes or to



identify any information gaps. We understand RECA previously surveyed complainants, but this practice has since stopped. Seeking feedback from stakeholders, particularly complainants who participate in regulatory functions, is a good practice, one we encourage RECA to re-assess.

- 5.18.4** RECA has dedicated resources to support licensees who choose to represent themselves at hearings and appeal including a *Hearings and Appeal Practice and Procedure Guidelines*. RECA recommends that licensees seek legal counsel but acknowledges the choice to self-represent. *The Self-Represented Program* includes a free 2-hour process information consultation with an independent lawyer for licensees, a *How to Represent Yourself at a Real Estate Council of Alberta Hearing and Appeal Guide* that details the steps in the hearings and appeal processes, and various plain language forms on what information is required for each part of the process. There are also eight modules on the RECA website with videos on specific topics (e.g., *How the Panel Chair Starts a Hearing, Cross-Examining a Witness, Objecting to a Question, Preparing a Written Submission for Sanctions and Cost*).
- 5.18.5** Our observation of hearings and appeal proceedings included matters involving self-represented licensees. It was not clear if licensees took advantage of the self-represented program resources, however, there were several occasions of panel chairs taking time to assist self-represented licensee's understanding of parts of a proceeding and confirming understanding, which appeared to be appreciated by licensees. The approach by each chair was neutral and focused on clarity of the process, while supporting the advancement of the overall proceedings. In one instance, a self-represented licensee requested an unscheduled break to review materials, which the chair granted after confirming no objection from RECA counsel.
- 5.18.6** We previously mentioned the number of delayed Level 1 complaint matters awaiting assignment. With these matters there appears to be a lack of transparency related to status updates to those involved. We saw no evidence complainants or licensees receive timely updates about the status of their matter or rationale for the delay.
- 5.18.7 Conclusion:** This standard is partially met.

## 6. RECOMMENDATIONS

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- 6.1** At the beginning of this report, we identified the purpose and scope of this voluntary review was to evaluate RECA's regulatory oversight, to assess whether RECA demonstrates accessibility, accountability, impartiality, and independence in fulfilling its regulatory mandate in a transparent, effective, and timely manner with a focus on RECA's five core regulatory functions:
- + Registration Services
  - + Practice Review (field audit)
  - + Investigations
  - + Conduct Counsel (prosecutions)
  - + Hearings Administration
- 6.2** We set out below some recommendations which we hope will assist RECA in consolidating its performance in areas of strength and in improving its performance where it can. The following recommendations are grouped under four key themes; public and consumer protection, transparency and consistency, efficiency and effectiveness and policy development. These themes arise from our observations and from the assessment under the Standards.
- 6.3** The themes are relevant across all Standards, which is why we have not attached specific Standards to the four themes. We believe RECA is in the best position to identify how the themes apply to their regulatory work and what needs attention to further strengthen its performance. The recommendations are intended to support RECA's on-going work in protecting consumers, engaging stakeholders, and setting the standards of practice for licensees and brokers in Alberta.
- 6.4** **Recommendation 1: Commit to focus on public/consumer protection**
- 1a. RECA should be more confident in asserting its consumer protection mandate and challenge those who suggest it should work for the industry rather than for the public. This should be a focus for regulatory functions, the Board and management.
  - 1b. RECA should ensure that information about its regulatory functions and decisions, including information on the website, clearly reflect its consumer protection mandate as the foundation for all its regulatory activities and decisions.
- 6.5** **Recommendation 2: Enhance transparency and consistency**
- 2a. RECA should continue to support stakeholders, applicants, licensees and public understanding of its role, mandate and regulatory processes.
  - 2b. Decisions made as part of a regulatory function should ensure participants receive sufficient information to support their understanding of the reasons for decisions and the evidence used to inform decisions.



- 2c. When seeking feedback or consulting with its stakeholders, RECA should be clear about the purpose and rationale for engagements, and publicly report on the breadth of feedback received, how it was considered and acted upon.
- 2d. RECA should establish regular review and evaluation schedules of its regulatory processes and timelines to ensure they are up-to-date, evidence informed and align with good practices.
- 2e. RECA should enhance public reporting of the performance of its regulatory functions using relevant data.
- 2f. RECA has identified broadening its external engagements as a strategic priority. We encourage it to continue to consider other groups who would benefit from RECA's engagement and resources, which may include groups such as Indigenous communities. It should further expand its translated materials.

### **6.6 Recommendation 3: Improve regulatory efficiency and effectiveness**

- 3a. RECA should ensure consistency, fairness and enhanced rigor with the Licensing, Credentialing, and Practice Review processes and how they are operationalized, and should include clear policies and criteria for decision making aligned with consumer protection.
- 3b. RECA should consider implementing oversight mechanisms for educational programs with a focus on consumer protection.
- 3c. RECA should review its Investigations function to ensure processes are proportionate to risk, timely and fair to those who raise concerns, as well as to licensees.

### **6.7 Recommendation 4: Formalise policy development**

- 4a. RECA should create a framework for policy development, including how new policies are researched, approved, consulted on, and finally determined. New policies should have a regulatory impact assessment approved by Industry Councils and Board.
- 4b. When undertaking policy related activities, RECA should expand its considerations of evidence and regulatory practices beyond the real estate industry and by looking at other regulators outside Alberta.



## 7. CONCLUSION

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- 7.1** The RECA Board, Industry Councils and staff team have much to celebrate in establishing the new regulatory body and in making their complicated legislation work in practice. There is, of course, more to be done. Their performance against the Standards of Good Regulation shows that RECA fully meets five Standards, partially meets twelve Standards and does not meet one Standard.
- 7.2** Four broad themes have emerged and we urge the Board, the Industry Councils and the leadership to focus on these in every decision they make. First and foremost, the protection of consumers and the interests of the public in Alberta should be the goal of everything RECA does. Secondly, effectiveness and efficiency in the performance of their regulatory functions. Third, structured policy development, based on sound research and understanding of the sector and the collection and analysis of internal data. And fourth, greater transparency and openness about what it does and how decisions are made, so that it is visibly accountable to the publics it serves.
- 7.3** Despite the troubled history of real estate regulation in Alberta, RECA should look forward not back. It should not seek to be liked by licensees or by the public but to be respected. Respect will come from the effective and fair delivery of regulatory functions, a relentless focus on consumer protection, transparent decision-making and evidence-based policies. If RECA continues to work on these fundamentals of regulation, it will be able to meet in full all the Standards of Good Regulation.



## 8. APPENDICES

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### APPENDIX 1

#### List of People Interviewed

The Regulator's Practice would like to express appreciation to all the RECA staff, management teams, Committees, and the Board who provided information and support throughout the regulatory review, including:

Ray Beisick	Janice Harrington	Russ Morrow	Elsie Saly
Vanessa Blakeney	Rina Hawkins	Stacy Paquin	Keron Thomas
Andrew Bone	Sherry Hillis	Shannon Patterson	Carolyn Thompson
Brian Douey	Kenny Ige	James Porter	Kristian Tzenov
Brooklyn Elhard	Nancy Leggett	Crystal Ranger	Patrick Wathuta
Christiana Gould	David Lem	Shawna Risdon	Barbara Young
Pat Hare	Amanda Lou	Cheryl Rumpel	Gen Zha
Christina Harrington	Warren Martinson	Amit Sahota	

Thank you to the representatives of the organizations we interviewed, including Alberta Mortgage Brokers Association, Alberta Real Estate Association, Building Owners and Managers Association of Edmonton, Calgary Real Estate Board, and Realtors Association of Edmonton.



## APPENDIX 2

### The Standards of Good Regulation (adapted to RECA's context)

The Regulator's Practice has been asked to undertake a third-party review of RECA's five core regulatory functions, (Registration Services, Practice Review (field audit), Investigations, Conduct Counsel (prosecutions), Hearing Administration) and assess whether RECA demonstrates accessibility, accountability, impartiality, and independence in fulfilling its regulatory mandate in a transparent, effective, and timely manner.

To support the review, The Regulator's Practice adapted the Professional Standards Authority's (PSA) "Standards for Good Regulation\*" as the assessment criteria the regulatory functions will be measured against. The Standards are the **outcomes** of good regulation for each of the regulatory functions.

The Standards have been adapted to reflect the legislative framework and language that RECA operates within, while maintaining the integrity and validity of the Standards.

The "possible evidence" has also been adapted from the PSA. The evidence list is **not prescriptive**, rather, it provides examples that illustrate the kind of evidence a regulator may have that could be relevant to the regulatory review. RECA may have other forms of evidence, not captured on this list, that are relevant to the review.

\* [https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-of-good-regulation145e23f761926971a151ff000072e7a6.pdf?sfvrsn=ce597520\\_17](https://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-of-good-regulation145e23f761926971a151ff000072e7a6.pdf?sfvrsn=ce597520_17)

## General Standards

### Standard One

RECA provides accurate, fully accessible information about its licensees, regulatory requirements, industry standards and rules, guidance, processes, and decisions.

### Standard Two

RECA is clear about its purpose and ensures that its policies are applied appropriately across all its functions and that relevant learning from one area is applied to others.

### Standard Three

RECA understands the diversity of its licensees and clients/consumers and of others who interact with RECA and ensures that its processes do not impose inappropriate barriers or otherwise disadvantage people.

### Standard Four

RECA reports on its performance and addresses concerns identified about it and considers the implications for it of findings of public inquiries and other relevant reports.

### Standard Five

RECA consults and works with all relevant stakeholders across all its functions to identify and manage risks to clients/consumers in respect of its licensees.



## Guidance and Standards

### Standard Six

RECA maintains up- to-date standards and rules for licensees which are kept under review and prioritise protection of clients/consumers.

### Standard Seven

RECA provides guidance to help licensees apply the standards and rules and ensures this guidance is up to date, addresses emerging areas of risk, and prioritises protection of clients/consumers.

## Education and Training

### Standard Eight

RECA maintains up- to-date standards for education and training which are kept under review and prioritise client/ consumer protection.

### Standard Nine

RECA has a proportionate and transparent mechanism for assuring itself that the educational providers and programs it oversees are delivering students and applicants meets the regulator's requirements for registration and takes action where its assurance activities identify concerns either about training or wider client /consumer protections.

## Registration

### Standard Ten

RECA maintains and publishes an accurate register of those who meet its requirements including any restrictions on their practice.

### Standard Eleven

The process for registration, including appeals, operates proportionately, fairly and efficiently, with decisions clearly explained.

### Standard Twelve

Risk of harm to clients/consumers and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

### Standard Thirteen

RECA has proportionate requirements to satisfy itself that licensees continue to maintain standards required for competent practice.





## Fitness to Practice (Professional Conduct)

### Standard Fourteen

RECA enables anyone to raise a concern about a licensee.

### Standard Fifteen

RECA's processes for assessing, investigating and hearing cases is fair, proportionate, deals with cases as quickly as is consistent with a fair resolution of the case and ensures that appropriate evidence is available to support decision-makers to reach a fair decision that protects the public at each stage of the process.

### Standard Sixteen

RECA ensures that all decisions are made in accordance with its processes, are proportionate, consistent and fair, take account of the statutory objectives, the regulator's standards and rules and the relevant case law and prioritise patient and service user safety.

### Standard Seventeen

RECA identifies and prioritises all cases which suggest a serious risk to consumers/clients or service users and seeks interim orders where appropriate.

### Standard Eighteen

All parties to a complaint or conduct matter are supported to participate effectively in the process.



## APPENDIX 3

# The Regulator's Practice Team Members

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The Regulator's Practice is a consultancy established to support professional regulators. The Practice's purpose is to support regulatory leaders as they work to evolve their regulatory operations, strategy and governance - strengthening their ability to keep people safe. The Practice brings together practitioners with diverse skill sets and expertise, all with deep experience working with and within professional regulators. Every member of The Practice shares a passion for serving the public, for making an impact, and for the practices that each of us brings to our client engagements. The team members we assembled for this project are listed below.

**Project Lead:** Kevin McCarthy, BA, BScN, MPPAL

Kevin has over 20 years of experience in professional regulation and leadership. He is deeply committed to serving a public interest mandate and supporting those who share this commitment.

Most recently, Kevin served as the Director of Strategy with the College of Nurses of Ontario, where his portfolio included working with Councils on governance modernization, strategic planning development and implementation, regulatory operations performance and innovation, regulatory policy and research, stakeholder relations and public affairs, and the College's Diversity, Equity, and Inclusion strategy.

Kevin has served as an advisor to professional regulators and ministries across Canada in areas including governance modernization, strategic planning and regulatory process enhancement. He has been appointed to several Ministry of Health (Ontario) task forces including The Public Inquiry into the Safety of Long-Term Care Residents, the College Performance Measurement Framework development, and Enhancing Public Register Transparency for health regulators. Kevin is also the Minister appointed Risk Officer for the Retirement Homes Regulatory Authority of Ontario.

Kevin's formal education includes a BA in Philosophy, a Master of Public Policy, Administration and Law and a Certificate in Conflict Resolution from York University. He also completed a Bachelor of Science in Nursing from the University of Toronto and is a registrant with the College of Nurses of Ontario.

**Senior Project Advisor:** Harry Cayton, CBE BA BPhil DipAnth DipHA FFPH

Harry Cayton is an internationally recognised advisor on professional regulation and governance. With colleagues he developed the principles of Right-touch regulation which have been adopted by professional regulators around the world.



Between 2007 and 2018 he was chief executive of the Professional Standards Authority in the UK. From 2002-7 he was National Director for Patients and the Public at the Department of Health and before that chief executive of the Alzheimer's Society. He chaired the NHS Information Governance Board and several enquiries for the UK government, including, on dental charges, regulation of cosmetic practice and of social work. In 2015 he was awarded the CBE by Her Majesty the Queen for services to health and regulation reform. He is a Fellow through Distinction of the Faculty of Public Health and received an Outstanding Leadership Award from the World Health Executive Forum in 2018.

Harry Cayton has advised regulators and governments in the UK, Canada, Australia, Ireland, New Zealand, Saudi Arabia, Hong Kong and Indonesia. The Cayton Report on the Health Professions Act in British Columbia was published in April 2019, giving rise to a new Health Professions and Occupations Act in 2022. His governance review for the Law Society of British Columbia in 2021 has been influential on the new Legal Services Act and across Canada. As well as with health regulators he has worked with the regulators of real estate, vehicle sales, insurance, engineering, geoscience, and surveying. He an advisor on regulation to the World Health Organisation, is a member of the Oversight Board of the Journal of Medical Regulation and of the International Advisory Group of the Australian Health Practitioners Regulatory Agency. He is International Consultant to the Saudi Commission on Health Specialties and a Senior Advisor to The Regulators Practice.

**Project Consultant:** Sam Lanctin, **BScPharm, MBA, ICD.D**

Sam Lanctin, a regulatory and governance consultant, is at the service of organizations that want to transform governance, enhance effectiveness, and raise their impact.

Building on more than 25 years of regulatory leadership experience, Sam provides a variety of advisory services to professional regulatory authorities that span regulatory effectiveness, governance, leadership, strategy, and business processes. Sam helps professional regulatory authorities build strong governance structures, processes and practices that support the fulfillment of organizational mandates, set clear expectations of and for board members and management and generally increase the efficiency and effectiveness in the boardroom.

He is the former Registrar of the New Brunswick College of Pharmacists. Organizations Sam has served include the Canadian Pharmacists Association, the (ON) College of Early Childhood Educators, the Nova Scotia College of Pharmacists, the New Brunswick College of Dental Hygienists, the Government of Yukon, and the Government of New Brunswick.

Sam holds a Bachelor of Science in Pharmacy degree from Dalhousie University and an MBA from the Université de Moncton. He is also a member in good standing of the Institute of Corporate Directors where he obtained the ICD.D (Director) designation.



**Project Consultant:** Kate Webb, **BA MA**

Kate Webb is a regulatory policy specialist who has worked across the UK health and legal services sectors advising on regulatory policy and performance. With a background in consumer and patient advocacy, her experience spans frontline and oversight regulators. While at the Professional Standards Authority she helped develop Right-touch regulation with Harry Cayton. Kate has a keen focus on policy analysis that seeks to improve regulation and deliver better outcomes for the public and consumers. She has advised on a wide range of topics, including governance, professional standards, regulatory cost effectiveness, fitness to practice, and regulatory performance.

**Project Advisor:** Bradley Chisholm, **BA JD CEC**

Bradley is the founder and principal of The Regulator's Practice. For the last ten years, Bradley has worked with professional regulators across Canada as both a consultant and an executive leader. Most recently Bradley served as the Chief Officer, Strategy and Governance for the newly formed BC College of Nurses and Midwives, leading two regulatory amalgamations, building a modern governance framework from the ground up, and providing governance advice to regulatory leaders and boards across the country.

Bradley attained his Juris Doctor from the University of Calgary and practiced law for over a decade. He attained his B.A. in Economics from McGill University and his I.B. diploma from the United World College (UWC) in Montezuma, New Mexico.

**Project Manager:** Iva Gatcheva, **BA**

Iva brings a diverse range of operational expertise from multiple industries to The Regulator's Practice. As a former consultant, Iva worked closely with an array of different teams to implement transformative systems, enhance processes, and establish operational efficiency to drive company growth and foster cross-disciplinary collaboration.

Her previous roles include managing strategic initiatives as Director of Strategic Growth for a Canada-wide cannabis company, and leading international product launches for a global cosmetics brand. Iva also acquired her foundational governance knowledge during her time at Watson Advisors, a boutique governance firm based in Vancouver, and holds a Bachelor of Political Science from McGill University.