

A review conducted for the Saskatchewan Registered Nurses Association

May 2019

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise. We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.¹ We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

About the Saskatchewan Registered Nurses Association

The Saskatchewan Registered Nurses Association is the profession-led regulatory body and association for more than 11,000 registered nurses in the province of Saskatchewan, Canada. The Saskatchewan Registered Nurses Association was established in 1917 by the provincial legislature and it is accountable for public protection by ensuring members are competent and promotes the professional interest of its members in the public interest. The Saskatchewan Registered Nurses Association is the largest dual-mandated regulatory body in Saskatchewan.

In 2018, the Saskatchewan Registered Nurses Association's Council approved the Strategic Plan for 2018-2020. The Strategic Plan is a comprehensive three-year strategic plan to guide the development, implementation and evaluation of the organisation's operations on an ongoing basis. All of the Saskatchewan Registered Nurses Association's regulation and organisational decisions to protect the public and advance the nursing profession will relate back to this plan in order for it to remain accountable, effective and transparent.

More information about the Saskatchewan Registered Nurses Association's work is available at www.srna.org.

¹ Professional Standards Authority (2015). *Right-touch regulation (revised)*. Available at: www.professionalstandards.org.uk/policy-and-research/right-touch-regulation

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1. Introduction

- 1.1 This report follows a request from the Saskatchewan Registered Nurses Association (the SRNA) for a review of its complaints, investigations and discipline function as a regulator of registered nurses in Saskatchewan. The SRNA wished to assess its performance against our Standards of Good Regulation² and against other regulators, to identify where it was performing well and to highlight any areas for improvement. The Standards of Good Regulation were adapted for our previous review of the College of Registered Nurses of British Columbia in 2015 to reflect the SRNA's particular context and statutory responsibilities. We agreed with the SRNA that these adapted standards relating to complaints, investigations and discipline would be appropriate for regulators in Saskatchewan. Our review examined the SRNA's approach to and compliance with the 10 Standards covering the complaints, investigations and discipline function. The review was carried out between November 2018 and February 2019.
- 1.2 Section 2 of this report sets out the scope of our review and how we approached it. In section 3 we set out some of the key features of the SRNA's legislation, bylaws and model of regulation. In section 4 we state each standard relevant to complaints, investigations and discipline and describe the evidence we have considered in coming to our view about the SRNA's performance against a standard. We also make recommendations arising from our analysis and discussion of the evidence. Section 5 summarises our conclusions and recommendations.
- 1.3 The Professional Standards Authority for Health and Social Care (the Authority) undertakes annual performance reviews of the nine health and social care professional regulatory bodies in the UK as part of our statutory responsibilities. We present the outcome of those reviews annually to the UK Parliament and lay them, before the devolved administrations in Scotland, Wales and Northern Ireland. We have also, following requests from the organisations or governments concerned, conducted reviews for other regulatory organisations in the UK, Australia, Ireland, New Zealand, Ontario and British Columbia. The reports of these reviews are available on our website.³
- 1.4 We commend the SRNA's willingness to seek improvement by undergoing this review and we acknowledge the active co-operation we received. Although the Authority has no statutory oversight of the SRNA, we consider that there are mutual benefits in this review. There is a benefit to the SRNA in having an independent assessment of its complaints, investigations and discipline function which benchmarks its performance in relation to other regulators internationally. At the same time we have the opportunity to learn about different approaches to professional regulation and regulatory practice which, following publication of this report, will be shared with regulatory bodies in the UK, Canada and internationally. There is value to

² See section 6

³ www.professionalstandards.org.uk

the international community of regulators learning from each other and we are grateful to the SRNA for its contribution to this by commissioning this report.

1.5 We thank the Council, Investigation and Discipline Committee members and staff of the SRNA for their positive engagement and co-operation with this review, for their readiness to provide us with the background information, paperwork and case files we needed, and for the many hours they spent between them answering our questions and explaining their processes. This report has depended greatly on their openness and co-operation and regular contact between us over a period of five months.

1.6 We have also benefited from the perspectives of other stakeholders who we met and spoke to in Saskatchewan (see section 7).

2. The scope of the review and our methodology

- 2.1 The Authority has an established process for undertaking performance reviews of regulators. This is based on a set of standards, which we developed in liaison with the UK health professional regulators and other stakeholders including patients and the public. These are called the Standards of Good Regulation. The Authority uses these Standards as a means of assessing how far regulators are meeting their statutory objectives.
- 2.2 In discussions with the SRNA, we acknowledged that the scope of its activities and the terminology it uses, vary in significant ways from the UK regulators we oversee. We have previously worked with other regulators in Canada where we have adapted the Standards of Good Regulation to ensure they are relevant. We agreed with the SRNA that similarly adapted Standards of Good Regulation could be used to review the SRNA's performance in relation to complaints, investigations and discipline.
- 2.3 We have set out the standards we agreed with the SRNA in section 6. The standards are those which are required to be met by any effective regulator in the performance of its complaints, investigations and discipline function. At an early stage of the review process the SRNA sent us information about its complaints, investigations and discipline processes. The report that follows is structured around, and focuses on, our assessment of the SRNA's performance against each of the agreed standards relating to complaints, investigations and discipline.
- 2.4 We have also looked at the context in which regulation of registered nurses operates in Saskatchewan as set out in the Registered Nurses Act, 1988.⁴ We have taken account of the respective roles of the Saskatchewan Association of Licensed Practical Nurses (SALPN), the Registered Psychiatric Nurses Association of Saskatchewan (RPNAS) and the Saskatchewan Union of Nurses (SUN).
- 2.5 The procedure followed in this review involved a scoping discussion with the SRNA's interim Executive Director and Registrar in October 2018, agreeing the standards and making a request for evidence in November 2018, and working at the SRNA in Regina, Saskatchewan between 10 and 14 December 2018. During this period we:
- Reviewed documentary evidence provided by the SRNA
 - Examined a limited sample of complaints case files, which included records of investigation, outcomes and reasons for decisions taken
 - Observed a meeting of the Investigation Committee
 - Met with members of the SRNA Council, Discipline Committee and legal Counsel to the Investigation Committee
 - Met with the interim Executive Director and Registrar and individually

⁴ [Registered Nurses Act](#), Government of Saskatchewan, 1988.

with relevant members of staff

- Met with external stakeholders of the SRNA.

- 2.6 The individuals we met and spoke with are listed in section 7. In addition to those persons listed in section 7, we also spoke with an SRNA member who had been the subject of an investigation and a complainant whose complaint had been investigated.
- 2.7 We consider that the information which we have been given and reviewed, our observation of the SRNA's work in practice and our discussions with its Council members, committee members, interim Executive Director and Registrar and staff have enabled us to come to a fair assessment of its performance against the Standards of Good Regulation. Overall, we are satisfied that our conclusions and recommendations are based on appropriate and credible evidence.
- 2.8 We have set out our approach to effective regulation in our paper *Right-touch regulation (revised)*.⁵ Right-touch regulation means using only the regulatory force necessary to achieve the desired effect. It sees regulation as only one of many tools for ensuring safety and quality and therefore that it must be used judiciously. Professional regulation exists not to promote or protect the interests of professional groups but to enhance patient safety and protect the public. The general approach to regulation set out in that paper underlies our findings in this review and our judgements about the performance of the SRNA.

⁵ Professional Standards Authority (October 2015). *Right-touch regulation* revised. Available at: www.professionalstandards.org.uk/policy-and-research/right-touch-regulation

3. The role of the Saskatchewan Registered Nurses Association and the regulatory context

- 3.1 The Saskatchewan Registered Nurses Association is the regulator of registered nurses in the province.⁶ It was established in 1917.⁷ There are 11,699 practising members⁸ in a province with a population of 1,098,352.⁹ There are two other professional regulators of the nursing profession in the province: the Saskatchewan Association of Licensed Practical Nurses,¹⁰ and the Registered Psychiatric Nurses Association of Saskatchewan.¹¹
- 3.2 The SRNA is governed by the Registered Nurses Act, 1988.¹² The Registered Nurses Act sets out the duties and objects of the SRNA in the province.
- 3.3 The SRNA has a dual mandate as a regulator and association body. As a regulator it is for accountable for public protection by ensuring its members are competent. The SRNA:
- Establishes requirements for licensure
 - Registers and renews licenses
 - Establishes, monitors, and enforces practice standards, the Code of Ethics and a continuing competence program
 - Provides practice advisement and support to members
 - Approves nursing programs
 - Establishes and maintains a professional conduct process.
- 3.4 As an association, the SRNA promotes the professional interest of its members in the public interest by doing the following:
- Represents RNs and RN(NP)s to government, employers, and other agencies in the interest of the public
 - Works collaboratively with other healthcare organizations
 - Encourages members to influence policy, support quality practice environments
 - Encourages leadership and member engagement
 - Promotes evidence-based nursing

⁶ SRNA also registers graduate nurses.

⁷ [SRNA Annual report, 2017](#).

⁸ [SRNA Annual report, 2017](#). This figure only includes registered nurses which are described as practising by the SRNA, not members who are described as graduate nurses, non-practising, retired and life & honorary.

⁹ [Statistics Canada, Statistique Canada, 2016](#).

¹⁰ <https://salpn.com/>

¹¹ <https://www.rpnas.com/>

¹² [Registered Nurses Act](#), Government of Saskatchewan, 1988.

- Provides educational resources and opportunities.¹³
- 3.5 The Registered Nurses Act provides the SRNA with the power to create bylaws whereby it can establish procedures to elect board members, create Board committees, establish standards of academic achievement and qualifications for registration, establish standards, limits and conditions for members' practice, and establish and maintain continuing competence and quality assurance programmes. The bylaws must be approved by its members and the provincial Minister for Health.
- 3.6 The SRNA is one of 27 health regulators in the province, regulating 32 professions. Regulated professions include: audiologists, chiropractors, dental assistants, dental hygienists, dental technicians and technologists, dental surgeons, dental therapists, denturists, dietitians, hearing instrument practitioners, medical laboratory technologists, medical radiation technologists, physicians, midwives, naturopathic practitioners, licensed practical nurses, registered nurses, registered psychiatric nurses, occupational therapists, opticians, optometrists, paramedics, pharmacists, pharmacy technicians, physical therapists, podiatrists, podiatric surgeons, psychologists, psychiatrists, speech and hearing health professionals, respiratory therapists, social workers and speech language therapists. One health profession, hearing instrument practitioners, is regulated by the Saskatchewan Ministry of Health.
- 3.7 The Registered Nurses Act provides that the SRNA will have a council, which must 'govern, manage and regulate the affairs and business of the association'. The Council comprises 13 members: nine members elected from the SRNA membership (including seven Members-At-Large from seven regions of the province, the President, and President-Elect), three government appointed public representatives and the SRNA's Executive Director (a non-elected, non-voting position).
- 3.8 There is an annual meeting where the SRNA President and Executive Director deliver their annual reports; and members vote on resolutions brought forward by their peers through the resolution process or from the floor, as well as any bylaws presented by Council.¹⁴
- 3.9 The Council may establish any committees that are provided for by the bylaws or that it considers necessary. There are two statutory committees that receive their powers from the Registered Nurses Act: the Investigation Committee and the Discipline Committee. Other committees include (this is not an exhaustive list): the Legislation and Bylaws Committee, the Registration and Membership Committee and the Nominations Committee.
- 3.10 The legislative framework sets out both protected titles and the services that members may provide including restricted activities that only members may perform while providing services. The Registered Nurses Act provides that no person other than a registered nurse shall use the title 'Registered Nurse', the abbreviation 'Reg. N.' or 'R.N.' or any word, title or designation, abbreviated or otherwise, to imply that the person is a registered nurse. Additionally, no person other than a nurse shall use the title 'nurse' where a

¹³ [Our role in the public interest](#), SRNA.

¹⁴ [SRNA Annual Meeting & Conference](#), SRNA.

client is, or may reasonably be expected to be, led to believe that the person is a nurse. Individuals registered with the Registered Psychiatric Nurses Association of Saskatchewan are excepted from this.¹⁵ The SRNA publishes documents setting out the scope of practice for registered nurses.¹⁶

What does registered nursing mean?	
Definition of practice	Definition of a registered nurse
<p>‘practice of registered nursing’ means the performance of coordination of health care services including but not limited to: observing and assessing the health status of clients and planning, implementing and evaluating nursing care; and the counselling, teaching, supervision, administration and research that is required to implement or complement health care services; for the purpose of promoting, maintaining or restoring health, preventing illness and alleviating suffering where the performance or co-ordination of those services requires the knowledge, skill or judgment of a person who qualifies for registration.</p>	<p>The council may register as a registered nurse and issue a licence to practise registered nursing to a person who produces evidence establishing to the satisfaction of the council that the person:</p> <p>(a) either:</p> <p>(i) has:</p> <p>(A) successfully completed a basic registered nursing education program given: (I) in Saskatchewan and approved by the council; or (II) outside Saskatchewan and recognized by the council as being equivalent to a Saskatchewan registered nursing education program approved by the council; and</p> <p>(B) passed examinations: (I) prescribed and conducted pursuant to the bylaws; or (II) recognized by the council as being equivalent to examinations mentioned in subclause (i); or</p> <p>(ii) is registered as the equivalent of a registered nurse in good standing pursuant to the legislation of another jurisdiction in Canada, or the legislation of a jurisdiction outside of Canada that is recognized by the council;</p> <p>(b) is of good character; and</p> <p>(c) has complied with the bylaws with respect to registration.</p>

¹⁵ Relatedly, [The Licensed Practical Nurses Act, 2000](#) states that ‘No person other than a member shall use the title “Licensed Practical Nurse”, the abbreviation “L.P.N.” or any word, title or designation, abbreviated or otherwise, to imply that the person is a member’.

¹⁶ [Interpretation of the RN Scope of Practice](#), 2015, SRNA.

4. Complaints, investigations and discipline

Our approach

- 4.1 There are 10 Standards of Good Regulation for complaints, investigations and discipline against which we assessed the SRNA's performance. These Standards cover performance throughout the complaints, investigations and discipline function. This function, within the SRNA's regulatory mandate, has been referred to in the recent past as the competence assurance process.
- 4.2 We checked that the SRNA manages the function in a way that is transparent, fair, proportionate and focused on public protection. We also checked that the SRNA had effective internal monitoring systems to facilitate continuous improvement, as well as internal systems to monitor compliance with procedures.
- 4.3 As part of our review, we conducted an audit of a sample of 30 competence assurance cases. We selected cases closed at each closure point within the SRNA's complaints, investigation and discipline process. The sample was taken from the pool of 60 cases where the SRNA had commenced an investigation after 1 January 2017 and the case had been closed before our on-site visit in December 2018. Cases where consensual complaint resolution agreements (CCRAs) were being monitored not yet completed, or where there was an appeal period running, were not included in the audit sample. Of the cases audited, 12 cases were managed through CCRAs, 11 cases resulted in letters of guidance and the remaining seven cases were closed by the Investigation Committee. We also audited two Discipline Committee cases, one closed in 2016 and one closed in 2017.
- 4.4 Our overriding aim in conducting this audit was to check that the SRNA was protecting patients, clients, service users and the public and maintaining confidence in the system of regulation. We also considered whether any weaknesses in the handling of these cases might also suggest that the public might not be protected, or confidence not maintained in the system of regulation operated by the SRNA, if the approach were adopted in future cases.

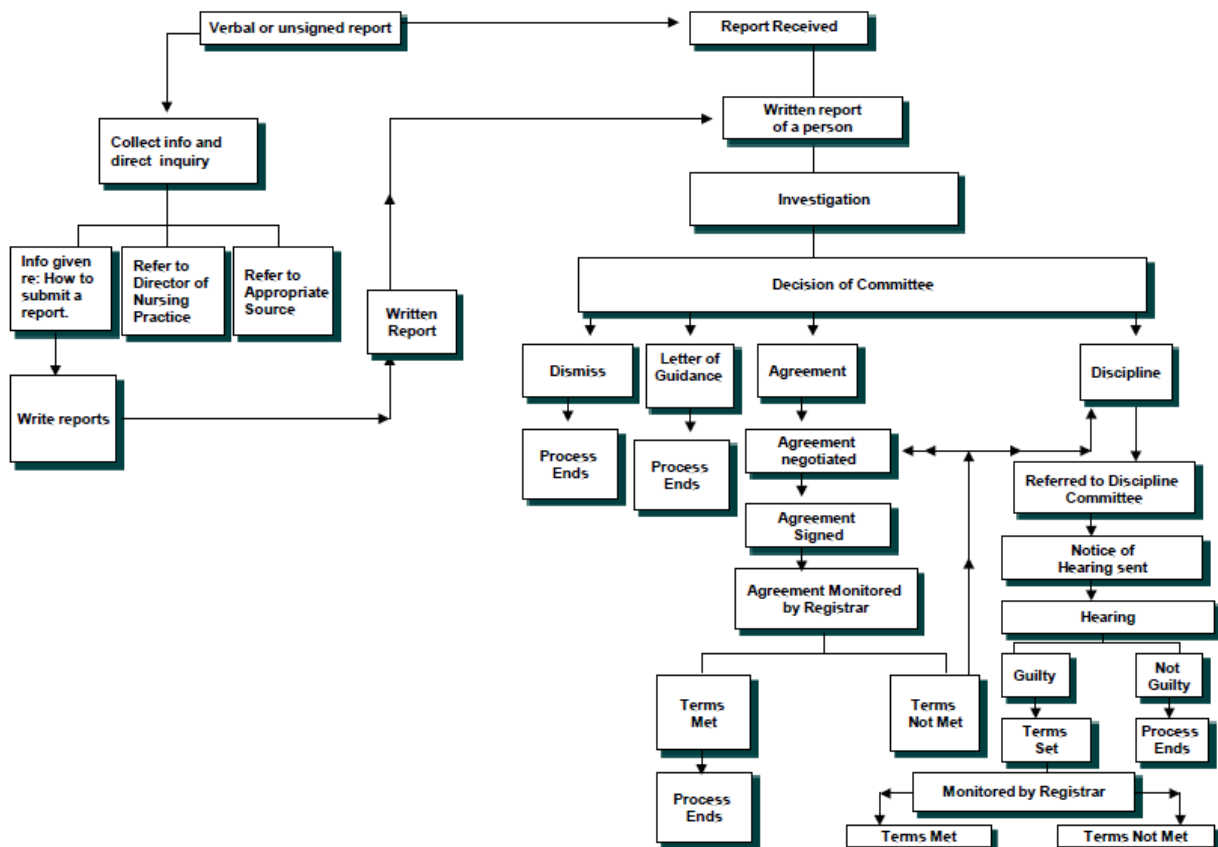
The SRNA's competence assurance process

- 4.5 The SRNA manages concerns raised about registered nurses that are SRNA members under the Registered Nurses Act. The Act mandates the SRNA to have independent, fair, and unbiased investigation and discipline processes. The jurisdiction for complaints, investigations and discipline encompasses only SRNA members who are licenced to practise as Registered Nurses, Graduate Nurses, Registered Nurses (Additional Authorised Practice), Registered Nurses (Nurse Practitioner), and Registered Nurses (Graduate Nurse Practitioner) in Saskatchewan.
- 4.6 Section 28 of the Registered Nurses Act requires the SRNA's Investigation Committee to review any report in writing alleging professional incompetence or professional misconduct by a member to determine whether the Discipline Committee should hear and determine the complaint disclosed in the report. The Investigation Committee may investigate the

report. Where it does not refer a complaint to the Discipline Committee, the Investigation Committee directs that no further action be taken with respect to the matter under investigation.

- 4.7 Bylaw IX made by the SRNA under the Registered Nurses Act provides the Investigation Committee with the power to issue letters of guidance to improve nursing practice where there is insufficient evidence to refer a matter to the Discipline Committee. Letters of guidance are not published and are not recorded on a member's register entry.
- 4.8 Bylaw IX also provides that where the Investigation Committee determines that there is sufficient evidence to refer a matter to the Discipline Committee, in appropriate cases it may resolve the matter using a CCRA. The SRNA describes CCRA's as 'low level resolution' whereby the Investigation Committee asks the member to voluntarily enter into an agreement to address the concerns raised by the complaint. Conditions and/or restrictions can be placed on a member's licence to practise and a CCRA is treated by the SRNA as a disciplinary action and marked on the member's online register entry accessible to the public.
- 4.9 In addition to the Act and Bylaws, the administrative standards and policies produced by the SRNA and held within the 'Competence Assurance Process Policy & Procedure Manual' provide more detailed guidance on how the complaints, investigations and discipline function is carried out. The Manual is described as the 'internal working document of the Investigation

SRNA COMPETENCE ASSURANCE FLOWCHART



Committee' and a flowchart included in the Manual helps to illustrate the competence assurance process (see above on page 12).

Our findings

- 4.10 Our overall conclusion is that the SRNA met four out of 10 Standards of Good Regulation for complaints, investigations and discipline and did not meet six. Of the Standards that were met, we observed some inconsistent performance. Although the SRNA did not meet the majority of the standards, we did not identify any cases which risked patient safety or public protection.
- 4.11 We identified that improvement was needed and made recommendations against all of the 10 Standards. Our recommendations relate to the need to ensure clear policies and procedures are in place to reduce unnecessary delay and to support staff in carrying out investigations and promote consistency in decision-making. We have also recommended that processes be put in place to allow the monitoring of progress on individual cases and consideration be given to evaluating the effectiveness of activities.
- 4.12 There is no doubt that the SRNA is committed to patient safety and we hope our comments and reflections about its complaints, investigations and discipline work are useful in the SRNA's continuing efforts to improve this aspect of its role.
- 4.13 We set out our detailed findings, including our conclusions from the audit, under each of the Standards below.

Standard 1: anybody can raise a concern, including the regulator, about a member

- 4.14 The SRNA addresses concerns about a member where these result in a written complaint (referred to as a report) being submitted by a complainant regarding a member's conduct or competence which could amount to professional misconduct and/or professional incompetence. Section 28 of the Registered Nurses Act, 1988 requires that when a report, in writing, of any person alleging that a nurse is guilty of professional incompetence or professional misconduct is submitted to the SRNA, the Investigation Committee must review the report to decide whether the Discipline Committee should hear and determine the complaint disclosed in the report.
- 4.15 The requirement that complaints be reported in writing by an individual may have the effect of discouraging complaints in some circumstances such as those involving particularly vulnerable complainants unable to prepare a written complaint. We note that within the SRNA's 'Competence Assurance Process Policy & Procedure Manual' Policy 1.1 describes the investigation procedure for written reports and Policy 1.2 describes the investigation procedure for verbal reports (queries and concerns raised by the public by telephone).
- 4.16 The SRNA's procedure allows a verbal report to be investigated on a preliminary basis and, if there is a significant concern about possible incompetence or misconduct, staff prepare a written report to then be submitted by the person raising the verbal report. During our discussions

with SRNA staff, it was clear that in the event any person wishing to raise concerns had difficulty preparing a written complaint, assistance would be offered to enable a written report to be prepared. We also note the SRNA's webpage dealing with complaints provides e-mail contacts to make submitting complaints easier. However, the possibility that assistance would be provided by the SRNA to facilitate the making of a written complaint is not explicit in information the SRNA publishes on its website about the complaints process.

- 4.17 Although the Registered Nurses Act does not place any restrictions on individuals who may raise a concern, the Act is silent on whether the regulator itself may raise a concern. During our site visit and discussions with SRNA staff, it was clear that in the past cases had been investigated due to media stories and taken forward on the basis of a written report by the Registrar or a member of the SRNA's staff although there is no formal policy or procedure. None of the cases we audited involved this situation, but one such case was referred to during the Investigation Committee meeting we observed.
- 4.18 We were also pleased to see that the SRNA has recently begun dealing with cases involving former members who have continued to practise but not renewed their membership. We understand in the past these were dealt with informally by way of agreements reached in individual cases and we have concerns about the transparency of such agreements being reached outside the competence assurance process. The SRNA obtained legal advice which also raised concerns about cases being dealt with informally and as a result the Registrar is now referring them to the Investigation Committee. None of these cases being dealt with as a Registrar referral fell within the cases from which our audit sample was taken. Therefore we are unable to comment on how the SRNA addresses dishonesty that may be associated with illegal practice and any impact this may have on public confidence in the SRNA's system of regulation.
- 4.19 We noted in cases we reviewed as well as during our observation of an Investigation Committee meeting, that there was a lack of clarity around how to approach new matters of potential misconduct or incompetence that came to light during the SRNA's investigation which had not been covered by the original complaint. In one of the Discipline Committee cases we reviewed, we noted that additional misconduct had been reported in the press and considered in employment arbitration but was not addressed by the SRNA's case before the Committee. In reviewing cases considered by the Investigation Committee, we noted that additional matters often came to light when employers and other witnesses were interviewed. These did not fall to be formally considered by the Investigation Committee, ostensibly because they had not been contained within the original written complaint. In the meeting we observed, however, we noted that additional matters were brought to the attention of the Investigation Committee when it was considering cases. There did not appear to be a consistent approach about whether such matters could be taken into account. While none of the cases we reviewed involved additional matters that posed a serious risk to public safety, we consider the SRNA should develop a clear policy addressing how additional matters that come to light during an investigation should be

addressed. This would allow the SRNA to ensure concerns are addressed and public protection is maintained.

- 4.20 Registered nurses, including SRNA members are able to raise concerns about other members and indeed are obliged to raise concerns in appropriate circumstances. Section 26(2)(k) of the Registered Nurses Act provides that failure by a nurse to report the incompetence of colleagues whose actions endanger the safety of patient may result in the Discipline Committee finding a nurse guilty of professional misconduct. The SRNA has adopted the Canadian Nurses Association 'Code of Ethics for Registered Nurses' which reinforces the obligation nurses have to report the unethical or unsafe practice of a nursing colleague or other healthcare professional.
- 4.21 The SRNA undertakes a number of activities to ensure that members, patients, the public and employers are aware of their ability to raise concerns about a member to the SRNA.
- 4.22 We are therefore satisfied that this standard is met. However, we also make recommendations to improve the SRNA's performance against this standard.
- 4.23 We *recommend* that information be provided to the public on the SRNA's website about support that would be offered for anyone facing difficulty in completing a written letter of complaint.
- 4.24 We *recommend* that, as part of the triage process discussed further below at paragraphs 4.56-4.64, steps are included to identify cases where complainants may require assistance to produce a written complaint.
- 4.25 We *recommend* that the SRNA develop a clear policy or procedure to allow the SRNA itself or the Investigation Committee to report a complaint or authorise an investigation on its 'own motion' whatever the source of the information raising a concern. While we acknowledge that the SRNA is taking forward investigations where concerns have been raised through the media or other sources, we consider a written procedure to provide clarity and support to staff when information is received by the SRNA other than by written formal complaint.
- 4.26 We *recommend* that the SRNA develop a clear policy or procedure to address additional conduct or competence matters that come to the SRNA's attention during an investigation. This would provide a procedure for investigators and guidance for the Investigation Committee on how such matters should be addressed. We consider the development of a formal process would also demonstrate fairness to members under investigation while also ensuring public protection.

Standard 2: information about complaints is shared with other organisations within the relevant legal frameworks

- 4.27 Information about all complaint cases (such as the nature of allegations, the source of the complaint, the demographic of the member being complained about and the outcome) is routinely recorded. This information is shared with the SRNA's stakeholders in the annual report in an easily accessible format. However, it was not apparent that any analysis of this data is undertaken, such as identifying trends in complaints or the demographic of

members that are complained about. Trends in the subject matter of complaints may indicate the need for guidance to the profession, or could inform risk assessment, for example if there were an increase in complaints about a specific area of nursing practice.

- 4.28 The publication and communication of final decisions is discussed below at paragraphs 4.111-4.116. The terms of individual CCRAs are disclosed to the member's employer and all Canadian nursing jurisdictions. We also understand from speaking with SRNA staff that anonymised letters of guidance and CCRAs are provided in updates to regular Council meetings.
- 4.29 We noted that both complainants and members who have been the subject of an investigation are routinely sent survey forms to record their experience of the SRNA's competence assurance process. The response rate across complainants and members is approximately 40 per cent and 'Survey Says' updates are provided to the Investigation Committee at its monthly meetings, in summaries published annually and included in the SRNA's Annual Report.
- 4.30 While the collection and publication of this information is commendable, the gathering of such data is good practice for most regulators seeking to improve their performance and ensure public protection. We did not see any evidence that the information collected was being used to review and improve processes in the complaints, investigations and discipline function. This calls into questions the usefulness of the exercise. During the Investigation Committee meeting we observed during our visit, we did not see any particular scrutiny of the results by the Committee and there are no written policies to support staff in seeking to make improvements based on the survey results.
- 4.31 We have concluded that this Standard is met, however we consider that greater use could and should be made of the two sets of data collected by the SRNA. We therefore make recommendations to improve the SRNA's performance against this standard.
- 4.32 We *recommend* that the SRNA share the analysis of complaints cases (such as trends and themes of cases over defined periods and case studies) with bodies with similar interests.
- 4.33 We *recommend* that the SRNA exchange information with other bodies with a relevant interest (such as the police, employers, other regulators) where complaints cases indicate information that may be of interest to them in relation to public protection or the wider public interest. This information could highlight areas where there are increased risks, anticipating the need for guidance to health professionals.
- 4.34 We *recommend* that the SRNA develop a method for considering information obtained from the competence assurance process survey and developing and implementing improvements to its processes.

Standard 3: the regulator will investigate a complaint, determine if there is a case to answer and take appropriate action including the

imposition of sanctions. Where necessary, the regulator will direct the person to another relevant organisation

- 4.35 The policies within the SRNA's Competence Assurance Process Policy & Procedure Manual set out the steps that are taken in the investigation of a complaint. We have concerns about the currency of the SRNA's policy documents and the frequency with which they are reviewed. The policy documents provided to us by the SRNA for the purpose of this review were either marked as 'draft' or have apparently not been reviewed since February 2011 or 2012. The digital file name of one version of the policies suggested that it had last been revised in September 2017, however there was nothing within the documents to indicate that any revisions had been made and there were no obvious differences from the 2012 versions. Due to the lack of revision of the policies dealing with complaints, investigations and discipline, we had concerns about whether the guidance in the manual was being applied by SRNA staff and the Investigation Committee.
- 4.36 During our visit in December 2018, we noted that there did not appear to be an induction document for new members of staff working within the competence assurance process and that an ad hoc two-page summary set out the basic steps in the complaints and investigation process. Similarly, the new triage process discussed further below at paragraphs 4.56-4.64 was not incorporated into the Manual and there were a number of areas, such as case allocation and handover, that are not addressed by any of the SRNA's policies and procedures. Below we have summarised the competence assurance process that we observed during our visit and based on the policy documents and our audit of cases.
- 4.37 Once a written complaint has been received, a file is opened, staff assess whether there is sufficient information to progress the complaint and seek additional information and clarification from the complainant. On some occasions, initial contact is received by telephone. In these cases, staff explain the complaints and investigation process, attempt to identify the nurse involved, directing complainants to other nursing regulators or sources of information as needed and confirm the information to be provided as part of a written complaint. Such telephone contacts do not always result in written complaints being received but are recorded in a preliminary communications record which is added to an investigation file once the written complaint is received. Preliminary communications can be brought to the attention of the Investigation Committee at its monthly meetings.
- 4.38 In practice, based on our audit of cases, the majority of investigation files will simply be opened when a written complaint is received. The complainant is contacted by telephone and arrangements are made to interview them and other relevant witnesses by phone. The complainant is sent a formal acknowledgement letter by registered post. The member will also be sent a letter by registered post advising them of the investigation, enclosing the written complaint and seeking comments on the complaint within 14 days. Many of those members investigated will be represented by SUN lawyers but a waiver of legal counsel is also enclosed for those members not wishing to engage legal representation.

- 4.39 The member's response is not shared with the complainant and we note section 28(7) of the Registered Nurses Act provides that no statement or evidence given by the nurse under investigation is to be used in evidence in any proceeding other than the case being considered by the Investigation Committee without consent. However, we consider it is important that member responses be shared with complainants in order that, as witnesses, they can comment on the response and inform the investigation. The sharing of the member's response would also provide transparency and public confidence in the SRNA's process. We observed in cases we audited that were dismissed or resulted in letters of guidance being sent, that relatively little information was provided to the complainant about the member's explanation for their actions. We consider the complainants would have been assisted by seeing, for example, a member's apologies or explanations of the circumstances surrounding their actions. We acknowledge that if member responses are to be shared with complainants, they may be prepared differently by members and their legal representatives, however we suggest consent to share the member's response with the complainant should be sought in every case and legal advice obtained on whether Section 28(7) prevents such disclosure where there is no consent.
- 4.40 Another reason we question the purpose of the member response in the SRNA's competence assurance process is that the complainant and other witnesses are often interviewed by telephone before the member's response has been received. In one case we audited where the member who was apparently the subject of the complaint was able to demonstrate they were not the relevant nurse, we saw the investigation had been closed. However, there does not appear to be any way to close a case without investigating it first. The Investigation Committee can close a case on the basis that it does not disclose a matter of professional misconduct or professional incompetence, however this is only done after an investigation has been completed and often external legal advice is also obtained. We were not provided with any guidance as to what would usually constitute professional misconduct or incompetence and hence might not warrant an investigation.
- 4.41 The final stage in the investigation is usually the interview of the member in person. These interviews supplement the information already provided in the member's written response and the evidence obtained in the SRNA's investigation will normally be made available to the member prior to the interview. It is unclear why complainants and other witnesses are interviewed over the telephone but members are interviewed in person.
- 4.42 In the cases that we audited we saw that investigations followed the same general approach. It was difficult to understand the aim of the investigation or discern any rationale for the approach taken in each case in the absence of an investigation plan, recorded reasons for the decisions taken in the investigation and/or guidance and procedure documents setting out the investigation process in detail. Investigations by staff are self-directed and although each case file includes a 'case outline' document, this does not constitute an investigation plan. The case outline does not set out in any

detail the concerns identified from the complaint or any risk assessment to ensure the investigation addresses relevant matters.

- 4.43 We saw variation in the length of time taken to progress cases to an Investigation Committee meeting. Generally, the delay was unexplained although the 'case outline' or the 'working notes to file' in some cases referred to 'excess workload'. We have discussed our concerns around delays in the complaints, investigation and discipline function further below at paragraphs 4.79-4.88.
- 4.44 In cases we reviewed, we noted that investigations sometimes gave rise to additional concerns about misconduct or incompetence by a member. The SRNA's policies do not address this eventuality and we have concerns about whether the SRNA adequately investigates additional concerns that do not form part of the written complaint. We have discussed our concerns around this and made recommendations above in paragraphs 4.19-4.26.
- 4.45 The Investigation Committee meets every month and we observed that meetings of the Investigation Committee open with a territorial acknowledgement of the treaty between and the First Nations and the Canadian Government. The monthly agenda lists every investigation being undertaken by SRNA staff. For example, at the meeting of the Investigation Committee we observed during our visit, nine cases were considered 'for decision', 46 cases 'for mention' and four 'preliminary cases' where formal written complaints had not been finalised. Other than the inclusion of a case in the Investigation Committee meeting agenda for mention, there is no formal referral and no formal direction or authorisation by the Committee for an investigation or what evidence should be obtained as part of the investigation. Policy 1.1 suggests the Investigation Committee will give directions regarding the interviews required and/or documents to be collected but we did not see this in practice.
- 4.46 The Investigation Committee reviews written complaint reports that are 'for decision' and decides whether to refer the matter to the Discipline Committee. The evidence gathered during the SRNA's investigation is made available to the Investigation Committee decision-makers in advance of the meeting and an oral summary is provided by the investigator at the meeting. We noted that in some cases, this summary had been incorporated in the Investigation Committee's draft decision document prior to the meeting taking place, ostensibly for efficiency reasons. As we did not observe the Investigation Committee undertaking a clear fact-finding stage when considering cases, we were concerned that the draft decision documents may not accurately reflect the Committee's view of the case. We noted that the Committee asked the investigators questions about the evidence obtained and sought their opinions on the case. We would have expected to see a written summary of the facts based on the evidence obtained (or admitted where a member accepted the alleged professional misconduct or professional incompetence) together with a recommendation as to the appropriate disposal, referencing published decision-making criteria.
- 4.47 The Investigation Committee in reviewing the complaint must first find whether there is sufficient evidence to refer a matter to the Discipline

Committee (Section 5(7), SRNA Bylaw IX). If there is insufficient evidence, the Committee may close or dismiss the complaint with no further action. Where the evidence gathered is not sufficient but tends to 'show undesirable practice', the Committee may issue a letter of guidance for the purpose of giving confidential feedback to the member including suggestions in order to improve nursing practice. Where the evidence is sufficient for a referral to be made, the Committee may consider, in an appropriate case, resolving the matter by using a CCRA. In deciding whether to use a CCRA, the Investigation Committee must consider the best interests of the public, the complainant and profession of nursing and the nurse who is the subject of the complaint. The purpose of the CCRA is to find an 'acceptable solution and remedy' for the professional misconduct and/or professional incompetence established in the investigation in order to promote safe and competent nursing practice. The nurse concerned must accept responsibility for their practice issues and consent to carry out certain actions designed to address the misconduct and/or incompetence. The member signs a binding agreement to satisfy the SRNA that the remedial actions will be carried out and CCRAs are monitored by SRNA staff under the Registrar's authority. Alternatively, where there is sufficient evidence, the Investigation Committee may refer the case to the Discipline Committee.

- 4.48 If the matter appears to be supported by the evidence then the Investigation Committee will usually direct staff to negotiate a CCRA, at least in the first instance as an alternative to a referral to the Discipline Committee. As a result, referrals to the Discipline Committee are rare. The sanctions available to the Discipline Committee are to expel the nurse from the SRNA and strike their name from the register, suspend a nurse for a specified period, impose conditions of practice, issue a reprimand or make any order that seems just. In addition, the Discipline Committee may impose a fine and order the payment of costs.
- 4.49 There is no statutory right of appeal by either the complainant or the member against decisions made by the Investigation Committee. We found the lack of appeal or internal review process to be unusual, particularly for complainants in cases where a CCRA is agreed with the member as an alternative to referral to the Discipline Committee.
- 4.50 We saw variation in the test applied by the Investigation Committee when making decisions and criteria taken into account when deciding on the appropriate outcome. Our concerns about the reasoning provided for Investigation Committee decisions is discussed further below at paragraphs 4.96-4.110. We identified a lack of guidance for the Investigation Committee on the test to be applied and the provision of reasons when deciding on the appropriate outcome in a particular case.
- 4.51 In light of our observation of the process followed by the Investigation Committee and the lack of clear procedural guidance for SRNA staff on the investigation process and the decision-making process of the Investigation Committee, we have concluded that this Standard is not met.
- 4.52 We *recommend* that the SRNA develop guidance and further training for the Investigation Committee on the test to be applied at each stage of the

decision-making process and how it should arrive at its decisions by reference to sanctions guidance.

- 4.53 We *recommend* that the SRNA develop and publish sanctions guidance for the Investigation Committee setting out the factors that will be taken into account when determining the appropriate outcome in an individual case.
- 4.54 We *recommend* that the SRNA introduce published criteria setting out those matters that would not meet the SRNA's threshold for establishing professional misconduct and/or professional incompetence.
- 4.55 We *recommend* that the SRNA institute a system of quality control that enables the SRNA to identify inconsistency in the decisions that are taken or the investigation steps that are followed and details of how learning from this is used to improve the investigation process and training.

Standard 4: all complaints are reviewed on receipt and serious cases are prioritised

- 4.56 Policy 1.1 'Written Reports/Investigation Procedure' within the SRNA's 'Competence Assurance Process Policy & Procedure Manual' specifies that the first action to be undertaken when a written report is received is completion of a 'Safety Risk Analysis' as part of the preliminary screening. Appendix III to the Manual then sets out a procedure for carrying out a Safety Risk Analysis.
- 4.57 The purpose of the Safety Risk Analysis (which is the only stage in the preliminary screening process described by Policy 1.1) is to establish whether there are risks of harm to either the complainant or the member arising from the fact a complaint has been made. If sufficient risk is identified, the SRNA can investigate the complaint without disclosing either the complainant or member's identities or both depending on the circumstances. In the files we audited we did not see evidence that safety risk analyses were being undertaken on every case. The requirement to carry out the safety risk analysis is not included on the 'Investigation Case Outline' document, suggesting investigators are not being prompted to consider it.
- 4.58 The SRNA did not have any other formal process in place for assessing whether a complaint provides a basis for urgent action to be taken to restrict a member's practice in order to protect the public or expedite the investigation covering the period within which our audit cases were selected. None of the cases we audited demonstrated a formal assessment of the seriousness of the member's alleged behaviour nor was there any apparent re-assessment of the seriousness of the case during the investigation as evidence was gathered. As a result, there was no evidence to suggest serious cases were prioritised.
- 4.59 We were pleased to see during our visit that a triage process and corresponding triage record form has been developed and was introduced in October 2018. The use of this form by investigators is intended to inform both the urgency with which the case should be investigated and the selection of the most appropriate member of staff to deal with the case based on their level of experience. Cases listed on the central spreadsheet

of all current SRNA investigations include the risk score from one to four. However, apart from the initial risk assessment, there is no process for revisiting the risk assessment and no guidance on how a high-risk case might be prioritised or managed differently from other cases.

- 4.60 We have highlighted concerns below at paragraphs 4.79-4.88 about the lack of case management or oversight of investigators. This is exacerbated by the lack of guidance on how cases should be prioritised based on the risk assessment. We consider the new triage process could be adapted to set out a detailed checklist the various actions and steps to be taken when the SRNA is first contacted by a complainant or receives information that suggests a member may be guilty of professional misconduct and/or professional incompetence. This could include assessing whether the complainant is vulnerable and/or requires assistance to submit a written complaint, whether the matters disclosed in the complaint are below the threshold for misconduct or incompetence and whether there is a need for the SRNA to take urgent action to protect the public. We acknowledge that the Registered Nurses Act does not provide mechanisms for the imposition of interim restrictions on a nurse's practice to protect the public in appropriate cases. We also acknowledge that SRNA has taken legal advice on how urgent action be taken by the Investigation Committee to make an early referral to the Disciplinary Committee in the case of a nurse posing a risk to the public, however we did not see any policy setting this out.
- 4.61 We were unable to see any evidence of a formal risk assessment process in any of the cases that we audited, and we also did not identify any process in place to support staff with identifying which cases should be prioritised due to the seriousness of the allegations. The absence of a consistent process applied in every case that links the seriousness of the case to it being prioritised for investigation, the lack of any review during the lifetime of an investigation or documented reasons for the decisions taken in an investigation leads to our conclusion that this Standard is not met.
- 4.62 We *recommend* that the SRNA review the current triage process and develop this further to include preliminary investigations, safety risk analyses and prioritisation and establishes processes to support staff in prioritising cases.
- 4.63 We *recommend* that the SRNA develop guidance for staff with tools for consistently: identifying agreed areas of risk; making reasoned decisions about prioritisation of cases; and recording the reasons for decisions about the progression of cases and for taking/not taking action.
- 4.64 We *recommend* that the SRNA introduce timeframes and guidance for the ongoing risk assessment of cases as new information arises and at relevant and appropriate stages of the case to demonstrate that appropriate action has been taken once risks have been identified.

Standard 5: the complaints process is transparent, fair, proportionate and focused on public protection

- 4.65 We have observed certain aspects of the SRNA's competence assurance process that involve complainants being treated differently from the member under investigation. We have identified above at paragraph 4.41 that the

complainant and other witnesses are interviewed by telephone but members being interviewed in person. While we do not consider this necessarily means the SRNA's complaints process is unfair, we consider any difference in the approach taken to complainants and members should be justified because otherwise this risks creating the impression that the process is unfair. We have also identified below at paragraph 4.93 another difference between the treatment of members and complainants when providing updates on the progress of an individual case.

- 4.66 Our audit of cases demonstrated that the majority of those members being investigated and represented by SUN lawyers seek extensions to the time limit for providing a response to the complaint. While we do not consider the granting of these extensions creates unreasonable delay in the process, there is no guidance on whether such extensions should be permitted, who has authority to grant extensions and what circumstances might warrant an extension. We acknowledge that sufficient time needs to be afforded to members and their legal representatives to prepare responses but suggest the availability of extensions be formalised in the SRNA's procedures and communicated to all members to ensure fairness. Consideration might also be given to increasing the time given for providing responses as the use of registered post can lead to delays in documents actually being received by members.
- 4.67 Almost all the outcome decisions made about complaints received by the SRNA are made by the Investigation Committee, rather than the Disciplinary Committee. Therefore it is particularly important that the process adopted by the Investigation Committee is as transparent as possible, acknowledging that the Investigation Committee meetings are not open to the public. The Investigation Committee meeting we observed during our visit was attended throughout by all the SRNA's investigators, an administrator recording the minutes, the staff member responsible for monitoring CCRAs and the Registrar also attended part of the meeting. We noted that the panel of four decision-makers comprising the Investigation Committee was outnumbered by SRNA staff. We also noted that one SRNA staff member and the two public representatives on the Investigation Committee were the only non-registered nurses in attendance. The Investigation Committee meetings are not attended by legal counsel. Given the SRNA's dual mandate as both association and regulator, we consider the current attendance at Investigation Committee meetings may create the perception of bias and the it is important to establish clearly the Committee's independence.
- 4.68 In considering individual cases, we noted that the investigators (who are all SRNA members) gave oral summaries of the evidence and responded to questions about their cases on matters which could involve opinion or judgement. We also noted that SRNA staff not involved in the investigation of an individual case contributed to case discussions. We consider that the provision of written reports and recommendations by investigators might remove the apparent reliance on discussions with those persons who are not Investigation Committee members. As part of a fair and transparent procedure, we would have expected to see the application of a formal test

and decision-making criteria to the evidence that had been gathered by investigators.

- 4.69 The fact that there is no review or appeal of Investigation Committee decisions available underlines the need for fair processes and transparency. Investigation Committee decisions may be susceptible to judicial review, however there is no internal review of cases that are closed, members cannot appeal against the decision to issue a letter of guidance and complainants cannot challenge the decision to agree a CCRA.
- 4.70 Our experience of the consideration by the Investigation Committee of individual cases was that the discussion tended to focus on outcomes, rather than applying any test to evidence to enable the decisions required under the Act and Bylaws. For example, some decisions recorded the outcome such as the issuing of a letter of guidance but did not record consideration of the evidence obtained in the investigation and a conclusion on evidential sufficiency. We did note that Investigation Committee decision-makers referred to a 'Regulatory Decision Pathway' devised by the National Council of State Boards of Nursing, and we noted the existence of the 'Rationale Used for Decision Making' document. However, this guidance was not utilised consistently with the result that the written decisions of the Investigation Committee did not always indicate why a particular decision had been made or state a conclusion as to whether there was sufficient evidence of the facts alleged and whether these facts were sufficient to establish professional misconduct and/or professional incompetence. This made it difficult to assess the appropriateness of the outcome in some cases.
- 4.71 Under Bylaw IX, Section 5(7), the Investigation Committee's decision to issue a letter of guidance is dependent on whether the evidence gathered in the investigation tends to show undesirable practice. We would have expected formal consideration of this, prior to any decision being made to issue a letter of guidance. We were not provided with any documentation setting out matters that might constitute undesirable practice or guidance as to when it might be appropriate to issue a letter of guidance.
- 4.72 Under Bylaw IX, Section 5(8), the Investigation Committee's decision to consider resolving a matter using a CCRA is limited to appropriate cases. We would therefore expect formal consideration of whether an individual case was appropriate as part of any decision to offer a CCRA. We note that Appendix II to the 'Competence Assurance Process Policy & Procedure Manual' sets out 'Criteria for Selecting Agreements as an Option'. We did not see evidence of these criteria being applied in the cases we audited or during our observation of the Investigation Committee. This gave us the impression that a CCRA would be offered in every case meeting the evidential threshold for referral to the Discipline Committee. We did not see evidence that matters such as the need to maintain public confidence in the nursing profession or declare and uphold proper standards of professional conduct were taken into account in decisions to offer a CCRA rather than refer to the Discipline Committee. Public hearings are an important way of establishing public confidence. We have discussed the quality of the SRNA's decision making further below at paragraphs 4.96-4.110.

- 4.73 We have concluded that this standard is not met. While the SRNA's complaints, investigations and discipline process is not necessarily unfair, complainants and members are treated differently which creates the appearance of unfairness. The procedure followed at Investigation Committee meetings also does little to address the fact that the meetings are not open to the public, there is no appeal and CCRA's are considered disciplinary outcomes as an alternative to Discipline Committee hearings.
- 4.74 We *recommend* that the SRNA provide detailed guidance for the Investigation Committee on the questions to be answered in each case when making a decision such as evidential sufficiency, whether the facts amount to misconduct and/or incompetence, whether there is evidence of undesirable practice and whether the case is appropriate for CCRA.
- 4.75 We *recommend* that the SRNA provide guidance as to those matters that will not ordinarily amount to professional misconduct or professional incompetence and those matters that might constitute undesirable practice. Such guidance should be published to ensure members and the public are aware of the SRNA's jurisdiction and what they can expect.
- 4.76 We *recommend* that the SRNA review the competence assurance procedure to ensure complainants are not treated differently from members without justification.
- 4.77 We *recommend* that the SRNA review the process for submitting investigations to be considered by the Investigation Committee to increase transparency and avoid any perception of bias. Consideration should be given to reviewing attendance at Committee meetings to include the attendance of a legal adviser, an independent administrative support person and non-members conducting some investigations.
- 4.78 We *recommend* that the SRNA consider whether it could introduce a process for internal review of decisions not to refer a case to the Discipline Committee.

Standard 6: complaints are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients

- 4.79 The Registered Nurses Act does not impose any time limits within which investigations of Discipline Committee hearings must be conducted. The SRNA sets a self-imposed timeframe for dealing with an investigation of four months from acceptance of a written complaint until decision by the Investigation Committee. Of the 60 cases closed in 2017 and prior to November 2018, only 10 were completed within four months. A further 12 were completed within five months.
- 4.80 During our visit we noted that there were a large number of active cases either still being investigated or awaiting after-actions and closure. Nineteen active cases were complaints from 2017 and these cases did not fall within our audit sample. We also noted that, although a case might be completed with a decision made by the Investigation Committee, there are several after-actions that must be carried out before a file is formally closed. During our visit, we noted that some completed files remained open due to a lack

of guidance on actions required before a case could be formally closed. While this did not have any impact on complainants or members, it demonstrated the lack of oversight of the work of investigators and clear administrative procedures within the competence assurance process.

- 4.81 From our audit of files and discussion with SRNA staff, it became apparent that the February, May and July 2018 Investigation Committee meetings were cancelled due to a lack of completed investigations on cases requiring a decision. This also meant there was no oversight by the Investigation Committee of any new complaints received by the SRNA or progress on existing investigations. We acknowledge the staffing changes that have taken place within the SRNA's complaints and investigation function in 2018 and the steps taken by the interim Executive Director and Registrar to recruit replacement and additional investigators. We also recognise that the number of cases awaiting investigation has decreased from the level in mid-2018.
- 4.82 However, we noted delays had occurred on individual cases that appeared unnecessary and when considered together with the lack of information provided to complainants, these tended to undermine public confidence in the SRNA's role in investigating complaints. On one case where the individual investigator dealing with the case had changed, there were no recorded actions for over a month until the complainant contacted the SRNA by telephone. In several cases, there was an unexplained delay of a month between the Investigation Committee meeting and the decision being sent to the complainant. While in some cases complainants are notified of the Investigation Committee's decision by telephone relatively quickly, this does not happen in most cases and there is no procedure setting out when parties to an investigation should be updated or timeframes for individual steps in a case.
- 4.83 We audited two cases that had been referred to the Discipline Committee for hearing. In one of these cases, there was a delay of over three and a half years between referral by the Investigation Committee and the final penalty decision being handed down. While we acknowledge that this delay was due in part to a Royal Canadian Mounted Police investigation for two years during which the SRNA's case could not be advanced, we were concerned by the delay of nine months between the Discipline Committee hearing and the hearing decision. We were also concerned by the delay of six months between the penalty hearing and the production of the Discipline Committee's penalty decision. In the other case we audited, we noted a four-month delay between the Discipline Committee penalty hearing and production of the penalty decision. We consider that these apparently unexplained delays have potential to undermine confidence in the SRNA's system of regulation.
- 4.84 In the cases we audited we were satisfied that there were no cases where delays resulted in harm or potential harm to the public. This was largely due to the particular circumstances of the cases and their relative seriousness, rather than good management. We noted that the SRNA does not have a system in place to monitor investigators' work on cases and demonstrate that cases are progressing without undue delay. We were also unable to identify a system in place for the SRNA to demonstrate that it is working to

identify and remedy the causes of delay in its casework. Again, we acknowledge that recent recruitment of investigators has reduced the number of outstanding cases.

- 4.85 Due to our concerns about case progression and delays in the investigation process we have concluded that this standard is not met. Timely investigation and progression of cases is an essential element of a good complaints process that will maintain public confidence in the SRNA as a regulator. We therefore consider that the SRNA should improve its performance against this standard.
- 4.86 We *recommend* that the SRNA should conduct a review of the resources in the complaints and investigation function to determine what additional resources may be required to expedite the handling of cases and to eliminate the backlog of cases that has been accrued without any consequential negative impact on the newer cases that are being received.
- 4.87 We *recommend* that the SRNA introduce regular (e.g. monthly) reporting mechanisms to Registrar and senior management that includes an analysis of the length of time taken to progress cases through each stage of its complaints process to ensure cases are progressed as quickly as possible and that improvements are maintained. This could be expanded to include less frequent (e.g. quarterly) reporting mechanisms to the Council to enable it to scrutinise performance and hold the executive to account.
- 4.88 We *recommend* that the SRNA undertake work to map the pathway of a complaint from receipt to closure. This could help identify where improvement is needed, identifying any bottlenecks in the process and to remove unnecessary delays. The subsequent creation of detailed guidance and procedures, including clear responsibility for administrative support would then assist existing and new staff in carrying out actions on files and allow for accountability.

Standard 7: all parties to a complaint are kept updated on the progress of their case and supported to participate effectively in the process

- 4.89 There are no requirements in the Registered Nurses Act or the SRNA Bylaws to provide updates to the parties to a complaint at specified intervals. The SRNA's 'Competence Assurance Process Policy & Procedure Manual' does not contain any policies or procedures specifying when the complainant or member under investigation should be provided with updates and there is no monitoring of cases to ensure parties are kept informed, particularly when there are delays in investigating a case.
- 4.90 Our audit of the SRNA's cases identified that many complaints were generated by employers or other members who were generally well supported to participate effectively in the complaints process. However, this will not apply to other people raising complaints such as patients. In cases that are dealt with inside the four-month guideline provided by Policy 1.1 for investigating a case and referring it to the Investigation Committee, it might be considered that there is little need for additional contact. Written complaints are acknowledged on receipt, complainants are contacted to arrange telephone interviews and then they are sent the written report of the Investigation Committee advising them of the outcome.

- 4.91 However, as already identified, the majority of cases within our audit sample were not completed within the four-month timeframe. During our visit, we spoke with both a member who had been the subject of a complaint investigation and members of the public who had submitted complaints to the SRNA. The lack of regular contact to provide updates was something they mentioned as contributing to their worry while the investigation was ongoing and the sense of abruptness when the report of the Investigation Committee arrived after many weeks or months without any contact from the SRNA. This resulted in the perception that the SRNA's investigation process was not sufficiently transparent.
- 4.92 We identified delays in the investigation of cases we audited and consider the SRNA could have improved its approach to keeping the complainant updated when these delays occurred. In one case, the complainant (a member of the public) was not contacted for eight months and in another case, the complainant (a member of the public) was not contacted for six months. In both these cases which were dismissed with no further action by the Investigation Committee, the lack of contact did not impact on the SRNA's investigation or the outcome. Although, continued loss of engagement with complainants could have an impact on the SRNA's ability to complete investigations. Not keeping complainants updated is poor practice and may reduce public confidence in the SRNA's system of regulation. We are also concerned that unexplained delays followed by a dismissal decision may raise questions about the transparency of the SRNA's complaints function and exacerbate a perception of unfairness.
- 4.93 We also observed that members under investigation, particularly those with access to legal counsel, received more frequent updates on the progress of their cases. To some extent this may be explained by regular legal representatives having dealings with SRNA staff in relation to a number of cases at the same time. In addition, the contact between the SRNA's investigators and the member under investigation usually increases in the final stages when an interview is arranged prior to the Investigation Committee considering the case. However, in cases we audited, we noted that members or their legal representatives were often notified by telephone when their case would be considered 'for decision' by the Investigation Committee. The same notification was not provided to complainants.
- 4.94 We have concluded that this Standard is not met based on the lack of procedures around the need to keep complainants and members updated during investigations and the evidence we saw during our audit of cases of complainants not being kept up to date.
- 4.95 We *recommend* that the SRNA develop guidance on the timeframes within which members and complainants are updated in individual cases together with a system for monitoring the steps taken by investigators or administrators to keep parties updated.

Standard 8: all decisions at every stage of the process are well reasoned, consistent, protect the public and maintain confidence in the profession

- 4.96 We have identified at paragraphs 4.56-4.64 concerns around the triage process employed by the SRNA. The risk grading does not appear to be documented with reasons and is not reviewed during the course of an investigation. In some cases we audited, we did observe reference in the 'Working Notes to File' to the safety risk analysis being carried out, but no reasoning as to the conclusion.
- 4.97 In the files we reviewed, we did not observe any investigation plan or decision-making process with reasons given for the direction taken by investigators. We have already noted that investigations are essentially self-directed and at the Investigation Committee meeting we attended, we did not observe the Committee giving any directions to investigators as to evidence to be obtained. We are concerned that the lack of documented decisions in investigations, together with a lack of oversight and systems in place to monitor progress on individual cases, may give rise to a risk of inadequate investigations being carried out.
- 4.98 Some of the files we reviewed related to members that had been the subject of several complaints to the SRNA. At the meeting of the Investigation Committee we observed, the Committee considered two cases relating to the same member but at different stages. We noted that investigation files were labelled with numerals indicating the number of previous complaints received about an individual member. However we saw no cross-referencing of information that might be relevant without accessing the previous file. Decisions made on investigations and decisions made by the Investigation Committee made no apparent reference to other complaints or previous Investigation Committee decisions. We would have expected previous letters of guidance or CCRA's to be relevant to future decisions and that there would be guidance about how they should be taken into account by investigators and the Investigation Committee.
- 4.99 We identified a lack of consistency in the reasons provided for Investigation Committee decisions and have already noted concerns around a lack of guidance on the questions to be addressed when the Investigation Committee makes its decision after an investigation. As a general comment, we found it difficult to understand from the Investigation Committee's written decisions why it had reached the outcome that it did. While some template documents are provided within the 'Competence Assurance Process Policy & Procedure Manual' and there is the 'Rationale Used for Decision Making', we did not see evidence of these being applied consistently.
- 4.100 We did not see a clear statement of the test applied to the evidence by the Investigation Committee in every decision. In one case we audited that was dismissed by the Investigation Committee, the decision stated that 'the investigation must establish on the balance of probabilities that it is more likely than not that the allegation occurred and that the allegations constitute professional misconduct'. However, the decision did not then explain whether the Investigation Committee considered the facts to have been established and whether they constituted professional misconduct. The

decision did not address the possibility that the investigation had tended to show undesirable practice that may have warranted the issuing of a letter of guidance. We were concerned that complainants might perceive closure decisions as a rejection of their accounts of what happened, rather than a decision that the matters were not serious enough to constitute professional misconduct.

- 4.101 The decision documents on cases we reviewed that resulted in letters of guidance did not consistently state which matters amounted to undesirable practice by the member concerned. We have already noted that there is no guidance for the Investigation Committee or SRNA members about the matters that might constitute undesirable practice. It was not always clear in Investigation Committee decisions that the alleged behaviour giving rise to professional misconduct and/or incompetence was not made out but that undesirable practice was. Further, the letters of guidance themselves listed apparently relevant SRNA 'Standards and Foundation Competencies for the Practice of Registered Nurses' and excerpts from the Canadian Nurses Association Code of Ethics, but did not explain how these were relevant to the member's behaviour and the facts in the case. Letters sent to the complainants only stated that a letter of guidance had been sent to the member and enclosed the Investigation Committee's decision.
- 4.102 We are concerned that the lack of detail in Investigation Committee decisions to issue letters of guidance may lessen the impact of this outcome. The lack of a stated connection between the member's behaviour as assessed by the Investigation Committee and the relevant professional guidance may result in letters of guidance being disregarded. Letters of guidance are not recorded on the SRNA's register and members are not required to acknowledge the letters. Similarly, complainants may feel that letters of guidance do not address the concerns they have raised. We note the SRNA is considering whether to issue letters of reprimand in appropriate cases. We would support such a move, so long as a policy is developed to differentiate between guidance and reprimands and the types of case that may warrant each outcome.
- 4.103 The Investigation Committee decisions we reviewed where CCRA's were agreed encompassed a wide range of restrictions from the requirement to complete reflective essays on aspects of the Code of Ethics to detailed practice assessments. The Investigation Committee decision document did not state the reason for the activities required by the CCRA or how they would remedy the member's behaviour in order to 'promote safe and competent nursing practice'. It was also not always clear from the Investigation Committee decision document that the evidential threshold for establishing professional misconduct or incompetence had been met. We noted the guidance provided in the Manual, Appendix II 'Criteria for Selecting Agreements as an Option', but we did not see evidence that these criteria were being applied. CCRA's were offered in every case where the evidential threshold for professional misconduct or incompetence was met. This means that if a member does not agree to the CCRA, the case must necessarily be referred to the Discipline Committee.
- 4.104 One case that we reviewed related to allegations that a nurse arranged to engage in sexual activity with a person identifying themselves as a minor.

The Investigation Committee's decision did not state a conclusion as to whether it accepted the member's explanation that he had reasonably believed the person he was communicating with was over the age of consent, despite her statements that she was a minor. We were concerned that the CCRA imposed in this case only required the member to submit reflective essays on two aspects of the Code of Ethics. It was not clear from the decision document how these aspects were relevant to the member's behaviour as assessed by the Investigation Committee. The decision document also did not refer to the appropriateness of agreeing a CCRA in this case by reference to the need to maintain public confidence in the nursing profession and declare and uphold proper standards of professional conduct.

- 4.105 We reviewed the decisions produced by the Discipline Committee in the two cases we audited. We acknowledge the legal support provided to the Discipline Committee during hearings and in the preparation of its decisions. Although we have identified concerns about the length of time taken by the Discipline Committee to produce decisions in these two cases, we have no concerns about the decisions themselves or the reasons provided.
- 4.106 Based on our audit of cases, the lack of documented reasons for investigation decisions, the quality of decision documents produced following Investigation Committee consideration and our observation of an Investigation Committee meeting, we have concluded that this standard is not met. We make the following recommendations in relation to this Standard:
- 4.107 We *recommend* that the SRNA develop guidance for the Investigation Committee setting out the questions to be addressed at each stage of the decision-making process and standard wording for decision documents demonstrating application of a threshold to the evidence obtained in the investigation.
- 4.108 We *recommend* that the SRNA develop guidance as to what may constitute undesirable practice warranting a letter of guidance where a complaint is not substantiated.
- 4.109 We *recommend* that the SRNA revise its guidance on cases where a CCRA may be considered appropriate and specify circumstances where it will be necessary to refer a case to the Discipline Committee for determination.
- 4.110 We *recommend* that the SRNA develop guidance for the Investigation Committee to support the production of decisions to issue letters of guidance or agree CCRAs that include a rationale explaining how the outcome addresses public protection, confidence and professional standards.

Standard 9: all final decisions, apart from matters relating to the health of a nurse, are published in accordance with the legislation and communicated to relevant stakeholders

- 4.111 There is no requirement in the Registered Nurses Act for the SRNA to publish final decisions. However, the SRNA's Bylaws provide that hearings

of the Discipline Committee are open to the public (subject to privacy considerations) and that where Discipline Committee determines that a member is not guilty of professional incompetence or professional misconduct, written notification shall be published. In accordance with the Policy AS-9.3 'Discipline Process', scheduled Discipline Committee hearings are published on the SRNA's website, including the Notice of Hearing which sets out the charges faced by the member. All decisions of the Discipline Committee, whether upholding or dismissing the complaint, are also published on the 'Discipline Decisions' page of the SRNA's website.

- 4.112 Those members with restrictions placed on their licence following a Discipline Committee decision have this noted on their registration entry that is accessible to the public through the SRNA's website. The nature of the restrictions is not detailed however, requiring a member of the public to separately search the Discipline Decisions webpage.
- 4.113 We audited two cases that had been considered by the Discipline Committee. We noted that in addition to publishing the outcomes on the SRNA's website, the registration entry of the member whose outcome was still in force, showed that that restrictions are in place. The Discipline Committee decisions were also notified to the complainant and other relevant stakeholders in accordance with policy AS-9.3.
- 4.114 Decisions by the Investigation Committee should not properly be considered 'final decisions' for the purpose of measuring the SRNA's performance against this standard, despite the fact that there is no right of appeal against Investigation Committee decisions. Generally, we would not expect decisions by the Investigation Committee to dismiss a complaint, send a letter of guidance or enter into a CCRA to be published. However, we noted that the SRNA's policy is to consider CCRAs to be a disciplinary outcome as an alternative to a referral to the Discipline Committee. We note that those members subject to CCRAs have restrictions noted on their publicly accessible online register entries and the terms of the CCRA are notified to their employers. The SRNA also makes disclosures to other appropriate bodies such as the other regulators of the nursing profession in Canada.
- 4.115 We have concluded that this standard is met. However, a publication policy clearly setting out the SRNAs approach to publication and disclosure of any information arising from complaints cases would improve the SRNA's performance against this standard.
- 4.116 We *recommend* that the SRNA develop and publish a policy setting out the SRNA's positions on what information will and will not be anonymised, what sanctions will and will not be published and the timescales for any publication.

Standard 10: information about complaints is securely retained

- 4.117 There is no provision in the Registered Nurses Act dealing specifically with information security. However Section 28(7) discussed above at paragraph 4.39 provides that the statements of nurses under investigation are only to be used in evidence in that investigation, except with consent of the nurse.

SRNA Bylaw IX, Section 5, paragraph (4) provides that the Investigation Committee 'shall hold in confidence, all documentation and information received'. Within the SRNA's 'Competence Assurance Process Policy & Procedure Manual', Policy 1.11 'Confidentiality of Investigation Files (last reviewed February 2011) and Policy 1.21 'Maintenance of Competence Assurance Information (Access & Retention)' deal with information security within the complaints, investigations and discipline function. The few cases that are referred to the Discipline Committee are managed by external lawyers under their terms of engagement and relevant legislation. Therefore we have not addressed confidentiality in that part of the complaints, investigations and discipline function.

- 4.118 Policy 1.11 sets out six broad principles governing the confidentiality of information related to complaints and investigations and makes reference to relevant statutory obligations and relevant legal opinions obtained by the SRNA. Policy 1.21 establishes processes such as paper records being kept in a locked area and electronic files only being accessed with passwords to ensure compliance with the SRNA's information security obligations. Policy 1.21 also provides retention guidelines for competence assurance files with the cases dismissed being retained for 75 years and CCRA or Discipline Committee case records being retained permanently.
- 4.119 One of the cases included in our audit sample involved a data breach and this case was drawn to our attention by the SRNA when agreeing the terms of this review. The case was opened in 2018 in the weeks prior to our visit and involved a complaint letter submitted by a patient being sent by the SRNA to a member who had not been involved in the patient's care.
- 4.120 The member concerned shared a similar last name to the nurse referred to in the letter of complaint. Based on our observations during the site visit in December 2018, we considered this to be a rare example of an administrative failing due to human error. However, in our view, the lack of clear policy and procedure around confidentiality contributed to this error.
- 4.121 In the case we reviewed, we were pleased to see the individual member had returned the documentation that had been sent in error and provided evidence to demonstrate that the letter of complaint could not have been related to that member's professional practice.
- 4.122 Due to the existence of three regulators in Saskatchewan for the nursing profession, SRNA staff usually take care to establish the identity of any member about whom they receive a complaint. We were concerned that it was apparent from the original letter of complaint that there was uncertainty about the identity of the nurse in question. In the circumstances, we would have expected the SRNA to have taken greater care to identify the relevant member before a file was opened and confidential information was sent by post to the wrong person.
- 4.123 The SRNA demonstrated good practice in that, as soon as the breach was brought to the SRNA's attention, the breach was escalated to the interim Executive Director and Registrar and an external legal opinion was obtained. We understand the SRNA to have acted in accordance with that legal advice. In addition, we noted that the 'Privacy Breach Incident Response Plan' was followed in formally notifying the interim Executive

Director and Registrar that a letter of complaint had been sent to the wrong member for response. The form completed as part of the plan identifies causes of the breach and suggests mitigation and prevention.

- 4.124 As already identified, we have concerns about the sufficiency and currency of the SRNA's policies and procedures. We saw no reference to the Privacy Breach Incident Response Plan in any of the complaints and investigations function policy and procedure documents. We also noted the form completed in the case we audited referred to another policy that was not contained within evidence provided to us for the purpose of this review. We have assumed the SRNA has an overall information security policy that is the source of the requirement to complete the privacy breach form. The steps identified in the form to mitigate the privacy breach and prevent recurrence, namely the creation of a checklist and process for rigorous checking of member identities did not appear to have been actioned by the time of our visit. However we noted the external legal advice obtained by the SRNA had been followed.
- 4.125 During our site visit, we observed the general security arrangements for the SRNA offices, acknowledging the SRNA's dual mandate necessitates the sharing of space and facilities. We noted that work remodelling offices meant that security doors were not always closed and it was not always apparent that there was clear separation of those parts of the building where information for complaints and investigations was being held. We consider care should be taken to ensure complaints information is handled separately as far as possible and kept securely. An example would be the receipt of post which is not always marked personal and confidential for the attention investigators and therefore the need for confidentiality may not be appreciated immediately.
- 4.126 The SRNA provided information to us for the purpose of our audit and this review, before, during and after our visit. We were impressed by the care taken by the SRNA in complying with confidentiality obligations when sending encrypted digital information and providing access to the computer systems on site. We noted those investigations staff working remotely did not have the same access to information stored on the SRNA's computer system and suggest that this be reviewed to determine whether this can be accommodated without weakening security. We were impressed with the SRNA's use of internet videoconferencing to address the logistical challenges of regulating nursing in Saskatchewan and noted that the Investigation Committee meeting we observed was chaired remotely. We also noted the care and attention shown by members of the Investigation Committee in the handling of confidential information and destruction of documents and handwritten notes they had made at the conclusion of the meeting.
- 4.127 We did have concerns about each investigation file existing in four forms, namely an investigator's physical working file, an investigator's digital file, the Investigation Committee's digital file and a physical file retained by the SRNA when the case is closed. Apart from the inefficiencies inherent in duplicating files, we consider this increases the risk of documents being misplaced. On files we audited, which were the final closed physical version of the file, we found some documents that related to investigations into

other members. We acknowledge that the retention of investigation files for lengthy periods of time to comply with legal obligations has presented difficulties for the SRNA and resulted in difficulty locating files we had selected for review.

- 4.128 We have concluded that this standard is met based on the SRNA's practices and approach to the breach that occurred in the case we audited. However, we were concerned by the apparent lack of action taken to prevent recurrence of the information breach, despite appropriate steps being identified. We therefore make recommendations to improve the SRNA's performance against this standard.
- 4.129 We *recommend* that the SRNA develop procedures for staff under its policy on confidentiality of investigation files to link with other information security policies and ensure action is taken when breaches occur to prevent recurrence.
- 4.130 We *recommend* that the SRNA address the secure retention of postal communications on receipt and general security of those areas where investigations information is held within the SRNA's offices.
- 4.131 We also *recommend* that that the SRNA consider rationalising investigation files and the way they are accessed by staff and the Investigation Committee. This would also support other recommendations we have made about the monitoring of investigation progress.

5. Conclusions and recommendations

- 5.1 We have reviewed the evidence submitted by the SRNA and assessed its performance of the complaints, investigations and discipline function against the 10 relevant Standards of Good Regulation. It met four of the 10 standards. Our review did not identify evidence that the SRNA had failed to protect the public or failed to address risks to patient safety in any individual case. Although we assessed the SRNA as not meeting six of the Standards, we acknowledge that the SRNA has identified the need to improve its performance of the complaints, investigations and discipline function and that engaging with this review is a positive step in the process of improvement.
- 5.2 The SRNA is an organisation with 30 staff fulfilling the roles of both association and regulator. Recent departures of long-serving staff members may have had a disproportionate effect on the SRNA's regulatory operations. We acknowledge the steps that have already been taken to recruit new staff within the complaints, investigations and discipline function. When existing committed staff are under pressure, we recognise that proper documenting of decisions can be a casualty of day-to-day operations. The arrival of new staff has highlighted deficiencies in the SRNA's policies and procedures, but also provides an opportunity to improve performance of the SRNA's regulatory function.
- 5.3 Although we have made recommendations against the four standards that we have assessed the SRNA as having met, we are conscious that the SRNA is keen to improve its performance wherever possible. We were impressed by the SRNA's communications with stakeholders via its website, the collection of information about its regulatory activities and the publication of final decisions in order to protect the public.
- 5.4 It is apparent that in the past the SRNA has taken a diligent approach to the creation and review of policies and procedures relating to its competence assurance process. Since 2012, it does not appear that the SRNA has continued to review and improve its processes despite gradually increasing numbers of complaints. We trust that this review will prompt the SRNA to ensure that policies and procedures will be developed, reviewed and improved on a regular basis incorporating feedback from complainants and members under investigation.
- 5.5 We acknowledge that the Registered Nurses Act does not provide the regulatory apparatus of a Health Professions Act such as may be available in other provinces of Canada. We also acknowledge the shortcomings posed by the requirement that bylaws be approved by SRNA members at annual meetings. However, we consider that the SRNA can make improvements to its complaints, investigations and disciplinary function within the current legislative context. Legislative change would assist the SRNA and other Saskatchewan health professional regulators to carry out their regulatory function and we are encouraged to hear that reform may be considered for the nursing profession, if the three nursing regulators were to agree on a unified approach.

5.6 We have made a number of recommendations to the SRNA to help it carry out the complaints, investigations and discipline function more effectively and transparently in the public interest. Below we have grouped our recommendations into those relating to policies and guidance and those relating to monitoring and quality control.

Policies and guidance

5.7 We *recommend* that the SRNA provide information on the SRNA's website about support that would be offered for anyone facing difficulty in completing a written letter of complaint. (*Standard 1*)

5.8 We *recommend* that, as part of the triage process steps are included to identify cases where complainants may require assistance to produce a written complaint. (*Standard 1*)

5.9 We *recommend* that the SRNA develop a clear policy or procedure to allow the SRNA or Investigation Committee to report an 'own motion' complaint or authorise an investigation. (*Standard 1*)

5.10 We *recommend* that the SRNA develop a clear policy or procedure to address additional conduct or competence matters that come to the SRNA's attention during an investigation. (*Standard 1*)

5.11 We *recommend* that the SRNA develop a process for considering information obtained from the competence assurance process survey and developing and implementing improvements to the process. (*Standard 2*)

5.12 We *recommend* that the SRNA provide detailed guidance for the Investigation Committee on the questions to be answered in each case at each stage of the decision-making process such as evidential sufficiency, whether the facts amount to misconduct and/or incompetence, whether there is evidence of undesirable practice and whether the case is appropriate for CCRA. (*Standards 3, 5 and 8*)

5.13 We *recommend* that the SRNA develop sanctions guidance setting out the factors that will be taken into account when determining the appropriate outcome in an individual case. (*Standard 3*)

5.14 We *recommend* that the SRNA develop published criteria setting out those matters that would not meet the SRNA's threshold for establishing professional misconduct and/or professional incompetence. (*Standard 3*)

5.15 We *recommend* that the SRNA review the current triage process and develops this further to include preliminary investigations, safety risk analyses and prioritisation and establishes processes to support staff in prioritising cases. (*Standard 4*)

5.16 We *recommend* that the SRNA introduce guidance for staff with tools for consistently: identifying agreed areas of risk; making reasoned decisions about prioritisation of cases; and recording the reasons for decisions about the progression of cases and for taking/not taking action. (*Standard 4*)

5.17 We *recommend* that the SRNA introduce timeframes and guidance for the ongoing risk assessment of cases as new information arises and at relevant and appropriate stages of the case to demonstrate that appropriate action has been taken once risks have been identified. (*Standard 4*)

- 5.18 We *recommend* that the SRNA provide guidance to the Investigation Committee, members and the public as to those matters that will not ordinarily amount to professional misconduct or professional incompetence and those matters that might constitute undesirable practice. (*Standard 5*)
- 5.19 We *recommend* that the SRNA review the competence assurance procedure to ensure complainants are not treated differently from members without justification. (*Standard 5*)
- 5.20 We *recommend* that the SRNA review the process for submitting investigations to be considered by the Investigation Committee to increase transparency and avoid any perception of bias. (*Standard 5*)
- 5.21 We *recommend* that the SRNA consider whether it could introduce a process for internal review of decisions not to refer a case to the Discipline Committee. (*Standard 5*)
- 5.22 We *recommend* that the SRNA develop guidance on the timeframes within which members and complainants are updated in individual cases. (*Standard 7*)
- 5.23 We *recommend* that the SRNA develop guidance as to what may constitute undesirable practice warranting a letter of guidance where a complaint is not substantiated. (*Standard 8*)
- 5.24 We *recommend* that the SRNA revise its guidance on cases where a CCRA may be considered appropriate and specify circumstances where it will be necessary to refer a case to the Discipline Committee for determination. (*Standard 8*)
- 5.25 We *recommend* that the SRNA develop guidance and provide education/training for the Investigation Committee to support decision-making around the issuing of letters of guidance or agreeing CCRA's. In particular, the guidance should assist the Investigation Committee to give reasons explaining how the outcome addresses public protection, confidence and professional standards. (*Standard 8*)
- 5.26 We *recommend* that the SRNA develop a policy setting out the SRNA's positions on what sanctions will and will not be published, what information will and will not be anonymised, and the timescales for publication. (*Standard 9*)
- 5.27 We *recommend* that the SRNA develop procedures for staff under its policy on confidentiality of investigation files to link with other information security policies and ensure action is taken when breaches occur to prevent recurrence. (*Standard 10*)
- 5.28 We *recommend* the SRNA address the secure retention of postal communications on receipt and general security of those areas where investigations information is held within the SRNA's offices. (*Standard 10*)
- 5.29 We *recommend* that consideration be given to rationalising investigation files and the way they are accessed by staff and the Investigation Committee. (*Standard 10*)

Monitoring and quality control

- 5.30 We make a general recommendation to the SRNA to implement a system of quality control across its regulatory functions that enables the SRNA to deliver, and demonstrate that it is delivering, a system of continuous improvement
- 5.31 We *recommend* that the SRNA share the analysis of complaints data with bodies with similar interests. (*Standard 2*)
- 5.32 We *recommend* that the SRNA exchange information with other bodies with a relevant interest where complaints cases indicate information that may be of interest to them in relation to public protection or the wider public interest. (*Standard 2*)
- 5.33 We *recommend* that the SRNA develop a system of quality control that enables it to identify inconsistency in the decisions that are taken or the investigation steps that are followed and details of how learning from this is used to improve the investigation process. (*Standard 3*)
- 5.34 We *recommend* that the SRNA develop an induction procedure for new staff and policies dealing with the allocation and handover of files between investigators. (*Standard 3*)
- 5.35 We *recommend* that the SRNA conduct a review of the resources in the complaints and investigation function to determine what additional resources may be required to expedite the handling of cases and to eliminate the backlog of cases that has been accrued without any consequential negative impact on the newer cases that are being received. (*Standard 6*)
- 5.36 We *recommend* that the SRNA introduce a regular reporting mechanism to Registrar and senior management that includes an analysis of the length of time taken to progress cases through each stage of its complaints process to ensure cases are progressed as quickly as possible and that improvements are maintained. (*Standard 6*)
- 5.37 We *recommend* that the SRNA undertake work to map the pathway of a complaint from receipt to closure. (*Standard 6*)
- 5.38 We *recommend* that the SRNA develop guidance on the timeframes within which members and complainants are updated in individual cases together with a system for monitoring the steps taken by investigators or administrators to keep parties updated. (*Standard 7*)

6. The Standards of Good Regulation (adapted)

Complaints, investigations and discipline
Anybody can raise a concern, including the regulator, about a member.
Information about complaints is shared with other organisations within the relevant legal frameworks.
The regulator will investigate a complaint, determine if there is a case to answer and take appropriate action including the imposition of sanctions. Where necessary the regulator will direct the person to another relevant organisation.
All complaints are reviewed on receipt and serious cases are prioritised.
The complaints process is transparent, fair, proportionate and focused on public protection.
Complaints are dealt with as quickly as possible, taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients.
All parties to a complaint are kept updated on the progress of their case and supported to participate effectively in the process.
All decisions at every stage of the process are well reasoned, consistent, protect the public and maintain confidence in the profession.
All final decisions, apart from matters relating to the health of a nurse, are published in accordance with the legislation and communicated to relevant stakeholders.
Information about complaints is securely retained.

7. People we spoke to in the course of the review

- The Chief Nursing Officer, Saskatchewan Ministry of Health
- Nurse Research and Practice Advisor, the Saskatchewan Union of Nurses
- Nordal LeBlanc Law Office
- The President, Saskatchewan Registered Nurses Association Council (Joanne Petersen, RN)
- The President-Elect, Saskatchewan Registered Nurses Association Council (Warren Koch, RN)
- Discipline Committee Member, Saskatchewan Registered Nurses Association
- Legal Counsel to the Investigation Committee, Saskatchewan Registered Nurses Association (Roger LePage)
- Members of competence assurance process staff, Saskatchewan Registered Nurses Association
- A member of the public whose complaint had been investigated by the Saskatchewan Registered Nurses Association
- A member of the Saskatchewan Registered Nurses Association who had been the subject of an investigation.

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