

Psychologists Act

CHAPTER 32 OF THE ACTS OF 2000

as amended by

2008, c 3, s. 15; 2012, c. 48, s. 39



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CHAPTER 32 OF THE ACTS OF 2000
amended 2008, c 3, s. 15; 2012, c. 48, s. 39

**An Act Respecting
the Practice of Psychology**

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Short title

- 1 This Act may be cited as the *Psychologists Act*, 2000, c. 32, s. 1.

Interpretation

- 2 In this Act,
- (a) “Board” means the Nova Scotia Board of Examiners in Psychology appointed pursuant to this Act;
 - (b) “candidate” means a person whose name is on the Register of Candidates and whose candidacy for registration is not suspended or cancelled;
 - (c) “committee” includes a committee of the Board, an investigation committee or a hearing committee, as the context requires;
 - (d) “complaint” means any complaint, report or allegation in writing and signed by a person regarding the conduct, actions, competence, character, fitness, health or ability of a registered psychologist or candidate, former registered psychologist or candidate or any similar complaint, report or allegation initiated by the Registrar;
 - (e) “court” means the Supreme Court of Nova Scotia;
 - (f) “disciplinary committee” means an investigation committee or a hearing committee;
 - (g) “disciplinary matter” means any matter involving an allegation of professional misconduct, conduct unbecoming a psychologist or professional incompetence, including incompetence arising out of physical or mental incapacity;

- (h) “former Act” means Chapter 368 of the Revised Statutes, 1989;
- (i) “hearing committee” means a hearing committee appointed pursuant to this Act;
- (j) “investigation committee” means an investigation committee appointed pursuant to this Act;
- (k) “mediation” means any form of alternative dispute resolution;
- (l) “psychology” includes
 - (i) the practice of examining the behaviour of children and adults,
 - (ii) diagnosing psychological and emotional disorders,
 - (iii) providing consultation and therapy,
 - (iv) counselling individuals, groups and organizations to enhance physical and mental health and to achieve more effective personal, social and vocational development and adjustment,
 - (v) teaching and applying psychological theory and principles regarding behaviour and mental processes such as learning, memory, perception and human development, and
 - (vi) designing, conducting and communicating the results of psychological research;
- (m) “registers” means the Register of Psychologists and the Register of Candidates kept pursuant to this Act;
- (n) “registered psychologist” means a person whose name is on the Register of Psychologists and whose registration is not suspended or cancelled;
- (o) “Registrar” means the person holding the office of Registrar pursuant to this Act. 2000, c. 32, s. 2.

BOARD OF EXAMINERS

Continuation and powers

3 (1) The Nova Scotia Board of Examiners in Psychology constituted by the former Act is hereby continued as a body corporate.

(2) The Board has perpetual succession and a common seal and may sue and be sued.

(3) In addition to any other power conferred by this or any other Act, the Board may do such things as it considers appropriate to advance the objects of the Board and, without limiting the generality of the foregoing, may

(a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;

(b) draw, make, accept, endorse, discount, execute, and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;

(c) engage such agents and employees as it, from time to time, deems expedient;

(d) expend the moneys of the Board in the advancement of its objects and the interests of the profession of psychology in such manner as it deems expedient;

(e) establish and maintain such offices and agencies as it deems expedient;

(f) invest and deal with any moneys and funds of the Board that are not immediately required, in such manner as it deems expedient;

(g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the Board;

(h) borrow money for the use of the Board on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the Board and pledge or sell such securities for such sums or at such prices as may be deemed expedient;

(i) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (h). 2000, c. 32, s. 3.

Composition and terms of office

4 (1) The Board consists of

(a) five members who are registered psychologists in good standing appointed by the Association of Psychologists of Nova Scotia; and

(b) two members who are neither registered psychologists nor candidates and are appointed by the Governor in Council.

(2) In subsection (3), “consecutive” means that twelve months or less occurred between the end of one term and the commencement of the next.

(3) Members of the Board hold office for a term of three years and shall not be members of the Board for more than two consecutive terms.

(4) Notwithstanding subsection (3), the terms of office of members of the Board upon the first appointment of members of the Board shall be

- (a) two registered psychologists appointed for a term of two years;
- (b) three registered psychologists appointed for a term of three years;
- (c) one person appointed by the Governor in Council for a term of two years; and
- (d) one person appointed by the Governor in Council for a term of three years.

(5) Notwithstanding subsections (3) and (4), persons appointed by the Association of Psychologists of Nova Scotia or the Governor in Council hold office until such time as they are re-appointed, or until their successors are appointed, even if such appointment or re-appointment does not occur until after their specified term of office has expired.

(6) Notwithstanding subsection (1), the persons who, at the coming into force of this Act, make up the Board of Examiners pursuant to the former Act constitute the Board until the appointment of members pursuant to this Section. 2000, c. 32, s. 4.

Effect of vacancy

5 A vacancy on the Board does not impair the right of the remaining members to act. 2000, c. 32, s. 5.

Removal or suspension of member

6 The Board may remove or suspend any member of the Board appointed pursuant to clause 4(1)(a) even though the term of that member has not expired. 2000, c. 32, s. 6.

Chair and Vice-chair

7 The Board may appoint one member of the Board to be the Chair of the Board and one member to be the Vice-chair. 2000, c. 32, s. 7.

Administration and regulations

8 The Board shall, subject to this Act, govern, control and administer the affairs of the Board and, without limiting the generality of the foregoing, may make regulations

- (a) providing for the management of the Board, including the keeping of the registers;
- (b) providing for the holding of meetings of the Board, quorum requirements and the conduct of such meetings;
- (c) fixing the time and place for regular meetings of the Board, determining by whom meetings may be called, regulating the conduct of

meetings, providing for emergency meetings and regulating the notice required in respect of meetings;

(d) providing for the appointment of such committees as the Board deems expedient;

(e) respecting the composition, powers and duties of such committees as may be appointed by the Board, and providing for the holding and conduct of meetings of such committees;

(f) respecting the powers, duties and qualifications of the Registrar and the officers, agents and employees of the Board;

(g) prescribing fees payable pursuant to this Act, including fees for the issuance and renewal of certificates of registration;

(h) prescribing the duties and fees and allowances of members of the Board and committees and providing for the payment of necessary expenses of the Board and committees;

(i) respecting the duties and remuneration of examiners, the Registrar and other persons employed by the Board to assist it in the discharge of its duties;

(j) respecting the recognition of schools and examinations as prerequisites to licensing;

(k) respecting the educational qualifications of registered psychologists and candidates;

(l) prescribing the seal of the Board;

(m) providing for the execution of documents by the Board;

(n) prescribing examinations to be taken by applicants for registration on the Register of Psychologists;

(o) prescribing forms and providing for their use;

(p) providing procedures not inconsistent with this Act for the making, amending and revoking of regulations;

(q) prescribing a code of ethics. 2000, c. 32, s. 8.

Regulations with approval of Governor in Council

9 (1) Subject to the approval of the Governor in Council, the Board may make regulations

(a) respecting procedures to be followed with respect to applications for registration on the Register of Psychologists or the Register of Candidates;

(b) respecting the issuance and renewal of certificates of registration;

(c) providing that the registration of a registered psychologist or a candidate be suspended without notice or investigation upon

contravention of any regulation that requires a registered psychologist or candidate to pay a fee, file a document or do any other act by a specified or ascertainable date, and providing for the re-instatement of a registration so suspended;

(d) respecting the discipline and conduct of registered psychologists or candidates and the revocation or suspension of certificates of registration;

(e) respecting the limiting or qualifying of a registered psychologist or candidate's registration, including, but not limited to, procedures and interventions;

(f) respecting a program of continuing education for registered psychologists or candidates and continuing competency requirements;

(g) respecting the re-instatement of any registered psychologist or any candidate whose registration has been suspended, cancelled or allowed to lapse;

(h) respecting the reporting and publication of decisions in disciplinary matters;

(i) regulating, controlling and prohibiting the use of terms, titles or designations by registered psychologists or candidates or groups or associations of registered psychologists or candidates in respect of their practice;

(j) prescribing the records and accounts to be kept by registered psychologists or candidates with respect to their practice, and providing for the production, inspection and examination of such records and accounts;

(k) notwithstanding subsection 4(1), changing the number and characteristics of appointments to the Board;

(l) determining the procedure to be followed at hearings by a disciplinary committee;

(m) prescribing the type of professional liability insurance or other form of malpractice coverage a registered psychologist or candidate shall hold;

(n) defining any word or expression used but not defined in this Act;

(o) further defining any word or expression defined in this Act;

(p) deemed necessary or advisable to carry out effectively the objects of the Board and the intent and purpose of this Act.

(2) The exercise by the Board of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2000, c. 32, s. 9.

Certificate as proof

10 A certificate purporting to be signed by the Registrar stating that a certain regulation of the Board was, on a specified day or during a specified period, a duly enacted regulation of the Board in full force and effect constitutes *prima facie* evidence in any court of that fact without proof that the person who signed it is the Registrar or that it is the Registrar's signature. 2000, c. 32, s. 10.

Meetings

11 (1) A member of the Board, or a committee of the Board, may participate in any meeting of the Board or committee of the Board, with the exception of the hearing committee when it is conducting a hearing, as the case may be, by telephone or other communications facilities that permit all persons participating in a meeting to communicate with each other, and a member participating in a meeting by such means is deemed to be present at the meeting.

(2) A meeting of the Board, or a committee of the Board, with the exception of the hearing committee when it is conducting a hearing, may be held by conference telephone call or other communications facilities that permit all persons participating in the meeting to communicate with each other, and all members participating in the meeting by such means are deemed to have been present at the meeting. 2000, c. 32, s. 11.

Registrar

12 (1) The Board shall appoint a Registrar who shall be a registered psychologist as defined by the regulations for the purpose of this subsection and who shall hold office during the pleasure of the Board, at such salary or other remuneration as the Board determines.

(2) The Board may appoint an Acting Registrar who shall exercise the powers and duties of the Registrar in the event of the death or incapacity of the Registrar or the Registrar's absence from the Province or, if there is a vacancy in the office of Registrar, until the appointment of a new Registrar is made.

(3) The Board may appoint such other officers, agents or employees at such salary or other remuneration, and for such term of office, as the Board considers necessary to assist it in carrying out its duties pursuant to this Act.

(4) The Board shall meet at least three times in each calendar year. 2000, c. 32, s. 12.

Duties of Chair and Vice-chair

13 (1) Subject to subsection (2), the Chair of the Board shall preside at all meetings of the Board.

(2) Where the Chair of the Board is absent from a meeting, the Vice-chair or, in the Vice-chair's absence, some other member chosen by the members present shall preside at the meeting. 2000, c. 32, s. 13.

REGISTERS

Powers and duties of Board

14 (1) The Board shall maintain a Register of Psychologists and a Register of Candidates which shall be open to inspection during regular office hours free of charge.

(2) The Board shall enter in the Register of Psychologists and the Register of Candidates the name and address of all persons who are entitled pursuant to this Act to be registered in these registers.

(3) The name and address of every person who, at the coming into force of this Act, is registered pursuant to the former Act under the Register of Psychologists and the Register of Candidates shall be entered into the registers, but shall continue under any stipulations or limitations attached to the person's previous registration.

(4) The Board shall enter in the Register of Psychologists and the Register of Candidates the date and circumstances of the suspension, cancellation or re-instatement of the registration of a registered psychologist or candidate.

(5) Any entry, suspension, cancellation or re-instatement of registration is effective from the date the entry thereof is made on either register.

(6) The Board may fix conditions, limitations and restrictions applicable to persons whose names are entered on the registers.

(7) The Board may, in its discretion, remove from either register the name of any person who, in the opinion of the Board, does not comply with a condition, limitation or restriction applicable to that person. 2000, c. 32, s. 14.

Right to be registered

15 (1) The Board shall register an applicant on the Register of Psychologists where the Board is satisfied that the applicant

(a) possesses a doctoral or equivalent degree in psychology that is acceptable to the Board from an educational institution approved by the Board;

(b) has two years of professional experience in the field of psychology acceptable to the Board, at least one year of which was obtained after being granted the doctoral or equivalent degree referred to in clause (a) and all of which were adequately and responsibly supervised in a manner satisfactory to the Board;

(c) has passed the examinations required by the Board;

(d) has paid the prescribed registration fee; and

(e) has not been removed by the Board from the Register of Psychologists or the Register of Candidates.

(2) The Board shall register the name of an applicant on the Register of Psychologists where the Board is satisfied that the applicant

(a) possesses a masters or equivalent degree in psychology that is acceptable to the Board from an educational institution approved by the Board;

(b) possesses at least four years of professional experience in the field of psychology acceptable to the Board, all of which were obtained after the granting of the degree referred to in clause (a) and all of which were adequately and responsibly supervised in a manner satisfactory to the Board;

(c) has passed the examinations required by the Board;

(d) has paid the prescribed registration fee; and

(e) has not been removed by the Board from the Register of Psychologists or Register of Candidates.

(3) The Board may, in its discretion, set conditions to be met before the name of a person who has been removed from either register shall be placed on the Register of Psychologists.

(4) Notwithstanding subsections (1) and (2), the Board may, in its discretion, decline to register the name of an applicant on the Register of Psychologists where the applicant

(a) has been convicted of a criminal offence or of an offence related to the regulation of the practice of psychology;

(b) has been found guilty of professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession;

(c) is currently involved in a proceeding for professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession; or

(d) is not able to speak and write either English or French with reasonable fluency.

(5) The Board may, in its discretion, waive all or part of the requirements of this Section where an applicant holds a certificate of registration as a psychologist from another province, state or country the standards of which are deemed by the Board to be at least equivalent to the standards required by subsection (1) or (2). 2000, c. 32, s. 15.

Register of Candidates

16 (1) The Board shall register an applicant on the Register of Candidates where the Board is satisfied that the applicant

(a) possesses a doctoral, masters or equivalent degree in psychology that is acceptable to the Board from an educational institution approved by the Board;

(b) has paid the prescribed fee to the Board; and

(c) has not been removed by the Board from the Register of Candidates or the Register of Psychologists.

(2) The Board may, in its discretion, set conditions to be met before the name of a person who has been removed from either register shall be placed on the Register of Candidates.

(3) Notwithstanding subsection (1), the Board may, in its discretion, decline to register the name of an applicant on the Register of Candidates where the applicant

(a) has been convicted of a criminal offence or an offence related to the regulation of the practice of psychology;

(b) has been found guilty of professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession;

(c) is currently involved in a proceeding for professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession; or

(d) is not able to speak and write either English or French with reasonable fluency. 2000, c. 32, s. 16.

Fees

17 (1) Every registered psychologist and candidate shall pay to the Registrar, or such person as the Registrar may designate,

(a) at the time that registered psychologist or candidate is registered; and

(b) on or before a date or dates prescribed by the Board in each year thereafter,

the prescribed annual registration fee.

(2) The registration of any registered psychologist or candidate who fails to pay the prescribed annual registration fees as required by subsection (1) or who fails to comply within the prescribed period with any continuing competence requirements established in regulations, shall be suspended in accordance with the procedure prescribed by the regulations.

(3) The Registrar shall forthwith notify in writing any person whose registration has been suspended pursuant to this Section.

(4) The prescribed annual registration fees payable by registered psychologists and candidates pursuant to subsection (1) shall be determined by the Board. 2000, c. 32, c. 17.

Relicensing

18 (1) Where the registration of a registered psychologist or candidate has been suspended pursuant to subsection 17(2), or where there has been non-compliance with continuing competency requirements, or in any other case where the registration of a registered psychologist or candidate has expired or lapsed pursuant to this Act or the former Act for non-payment of fees, such person may apply to the Registrar for relicensing.

(2) Where a person referred to in subsection (1) satisfies the Registrar

(a) of the person's intention to practise psychology in the Province;

(b) as to the person's activities since the date of the suspension or expiry or lapsing of the person's registration;

(c) that the person has maintained and possesses an appropriate level of skill and knowledge in psychology;

(d) as to the person's good standing in all jurisdictions in which the person has practised psychology since the date of the suspension or expiry or lapsing of the person's registration;

(e) that the person has paid all fees or any other amount owing to the Board and such administrative fees as may be prescribed; and

(f) that the person has complied with continuing competency requirements,

the Registrar may re-register the person.

(3) Where the registration of a person is refused pursuant to subsection (2), the person may request the opportunity to appear before the next scheduled meeting of the Board, with or without legal counsel, where the Board shall consider the application in accordance with this Act.

(4) After hearing the applicant and the Registrar, the Board may

(a) direct the Registrar to register the applicant;

(b) direct the Registrar to register the applicant subject to such conditions, limitations or restrictions as the Board considers appropriate;

(c) adjourn further consideration of the application pending completion by the applicant of such training, upgrading, clinical examinations or other examinations as the Board may designate; or

(d) direct the Registrar to refuse the application where the Board is not satisfied that the applicant meets the criteria set out in subsection (2). 2000, c. 32, s. 18.

Effect of expired registration

19 Every registered psychologist or candidate who is registered pursuant to Section 18 is subject to any conditions, limitations or restrictions contained in the registration that had expired, lapsed or been suspended pursuant to subsection 17(2), unless the Board orders otherwise. 2000, c. 32, s. 19.

Surrender

20 (1) The registration of a registered psychologist or candidate may only be surrendered by the person after notice in writing to the Board and with the consent of the Board.

(2) Where a person ceases to be registered for any reason, such person remains subject to the jurisdiction of the Board in respect of any disciplinary matter arising out of the person's conduct while registered. 2000, c. 32, s. 20.

“psychologist” and like words

21 The word “psychologist” or “psychologist (candidate)” or any like words or expressions implying a person recognized by law as a psychologist in the Province, when used in any regulation, rule, order or by-law made pursuant to an Act of the Legislature enacted or made before or after the coming into force of this Act, or when used in any public document, means a person registered in the Register of Psychologists or the Register of Candidates. 2000, c. 32, s. 21.

PROHIBITIONS

Practice by person other than registered psychologist

22 (1) A person who is not a registered psychologist and who is not registered on the Register of Candidates and who

(a) holds himself or herself out to the public by any title or description of services containing the word “psychology”, “psychologist” or “psychological” or any abbreviation or derivative;

(b) publicly or privately, for hire, gain or hope of reward, practises or offers to practise psychology; or

(c) holds himself or herself out in any way to be entitled to practise psychology,

is guilty of an offence.

- (2) Subsection (1) does not apply to
- (a) psychology students, interns and technicians provided that they use a title or description of services such as “psychology student”, “psychology intern”, “psychology technician” or other title or description of services which clearly indicates their student, intern or technician status; or
 - (b) professors of psychology while carrying out their teaching and research duties, so long as they use a title or description of services that clearly indicates their professor of psychology status.
- 2000, c. 32, s. 22.

Offences

- 23** (1) A person who is registered pursuant to this Act who practises psychology in violation of any condition or limitation relating to the person’s registration is guilty of an offence.
- (2) A person who practises psychology while the person’s registration is suspended or revoked is guilty of an offence. 2000, c. 32, s. 23.

Absence from Province

- 24** (1) A registered psychologist or candidate who leaves the Province and practises psychology on the person’s return to the Province before providing the Registrar with a certificate of good standing from all jurisdictions in which the person had practised during such absence is guilty of an offence.
- (2) The Board may waive the requirements of subsection (1) and may make regulations exempting members from the requirements of subsection (1) where members have been absent from the Province for a period shorter than the maximum period prescribed in the regulations. 2000, c. 32, s. 24.

False representation

- 25** A person who knowingly by false or fraudulent declaration or representation procures or attempts to procure registration under this Act for that person or for another person is guilty of an offence. 2000, c. 32, s. 25.

Prosecution

- 26** (1) In a prosecution for a violation of this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise psychology, or that a person comes within any of the exemptions provided by this Act, is on the person accused.
- (2) Where a violation of this Act or the regulations by a person who does not have the right to practise psychology continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

(3) For the purpose of this Act, proof of the performance of one act in the practice of psychology on one occasion is sufficient to establish that a person has engaged in the practice of psychology. 2000, c. 32, s. 26.

Offences and penalties

- 27 (1) A person who violates
- (a) this Act; or
 - (b) a regulation made pursuant to clause 9(h) or (i),

is guilty of an offence and the *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act or the regulations.

(2) All fines and penalties payable under this Act as a result of a prosecution by or on behalf of the Board belong to the Board.

(3) Any information to be laid pursuant to this Act may be laid by the Registrar or any member of the Board, with the consent of the Minister of Health. 2000, c. 32, s. 27.

Injunctions

28 (1) In the event of a threatened or continuing violation of this Act or the regulations, the Board may apply to a judge for an injunction to restrain the person from continuing or committing the violation, and the judge may grant an injunction if the judge deems it to be just.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such order as to costs as the judge considers proper in injunction proceedings under this Act. 2000, c. 32, s. 28.

CLIENT RECORDS

Powers of Board

29 (1) In this Section, “client records” includes all documents, charts, X-rays, photographic film or any other form of record, including, but not limited to, records stored by electronic means, relating to the clients of a registered psychologist or candidate.

- (2) Where
- (a) a registered psychologist or candidate
 - (i) dies, disappears, is imprisoned, leaves the Province or surrenders their registration,

- (ii) is struck off a register or is the subject of suspension of licence,
 - (iii) has been found to be an incapacitated or unfit registered psychologist or candidate, or
 - (iv) neglects the practice of psychology; and
- (b) adequate provision has not been made for the protection of the registered psychologist or candidate client's interests,

the Board may, with or without notice as the court directs, request the court to appoint a custodian who is a registered psychologist or candidate to take possession of the client records of the registered psychologist or candidate.

(3) A custodian appointed pursuant to subsection (2) shall

(a) hold and protect all client records taken into custody; and

(b) distribute copies of the client records, as may be appropriate, to the registered psychologists or candidates of the clients concerned, including the registered psychologist or candidate referred to in subsection (2), and to the duly appointed representatives of the clients, or the clients themselves unless there are reasonable grounds to believe it would not be in the best interest of the client to make that information available, subject to such fees as the court may direct or the regulations may prescribe.

(4) In an order made pursuant to subsection (2), or in a subsequent order made on the application of the Board or the custodian, with or without notice as the court directs, the court may

(a) authorize the custodian to employ professional assistance to carry out the custodian's duties;

(b) direct any sheriff to seize, remove and place in the possession of the custodian client records;

(c) where there are reasonable grounds to believe that any client records may be found in any premises, safety deposit box or other receptacle, direct the sheriff to enter the premises or open the safety deposit box or other receptacle;

(d) direct the owner of any premises or the person in possession of any premises, or any bank or other depository of client records to deal with, hold, deliver or dispose of such client records as the court directs;

(e) give directions to the custodian as to the disposition of client records;

(f) make provision for the remuneration, disbursements and indemnification of the custodian in the course of the custodian's duties;

(g) make provision for the discharge of a custodian either before or after completion of the responsibilities imposed upon the custodian by any order made pursuant to this Section;

(h) give such further directions as the court considers are required in the circumstances.

(5) Unless the court otherwise directs, it shall be sufficient for the custodian to give notice by newspaper advertisement to clients, registered psychologists or candidates or the general public that the custodian has possession of the client records of a registered psychologist or candidate.

(6) Subject to any order of the court, or where one year has passed from the date of the court order appointing the custodian, whichever is earlier, the custodian shall report to the Board, which may discharge the custodian or make any order it deems appropriate regarding any client records remaining in the hands of the custodian, and the custodian's compliance with the order of the Board discharges the custodian in respect of those client records affected.

(7) Unless otherwise ordered pursuant to subsection (6), upon discharge of a custodian pursuant to subsections (6) and (9), the Board shall take into permanent custody client records and assume the responsibilities of a custodian as provided in subsection (3).

(8) The Board may destroy records after the passage of a minimum period of time as ordered by the court or as set by regulations.

(9) The court may, upon the application of the Board made either *ex parte* or on such notice as the court directs, remove a custodian from office and, where the court deems it expedient, appoint another custodian in the custodian's place, and may include in such order such further directions as are required in the circumstances.

(10) A person in respect of whom an order has been made pursuant to this Section may, after giving notice to the Board and to the custodian, apply to the court to vary or set aside an order made pursuant to this Section and to direct the custodian to place all or part of the client records back into the possession of the registered psychologist or candidate upon such terms as may be just.

(11) The court may give directions as to service of any notice required or order made pursuant to this Section.

(12) No action for damages lies against the Board or any committee, member, officer or employee of the Board for anything done or omitted to be done in good faith pursuant to this Section, or against a custodian or any other person acting in good faith pursuant to this Section or an order issued pursuant to this Section.

(13) This Section applies *mutatis mutandis* to former registered psychologists or candidates. 2000, c. 32, s. 29.

DISCIPLINE

Initiation of complaints

- 30 Complaints may be initiated by
- (a) any official body corporate or association;
 - (b) the Registrar; or
 - (c) any other person. 2000, c. 32, s.30.

Expert assistance

31 The Board or a disciplinary committee may employ, at the expense of the Board, such legal or other assistance as it considers necessary for the purpose of the investigation of any disciplinary matter. 2000, c. 32, s. 31.

Confidentiality

32 Every person involved in the administration of this Act, or any member of the Board or a committee of the Board, shall maintain confidentiality with respect to all information that comes to that person's knowledge regarding clients except

- (a) in connection with the administration of the disciplinary process;
- (b) to one's own legal counsel;
- (c) as otherwise required by law; or
- (d) with the consent of the person to whom the information relates. 2000, c. 32, s. 32.

Investigation of other matters

33 A person or disciplinary committee investigating a disciplinary matter concerning a registered psychologist or candidate may investigate any other disciplinary matter concerning the registered psychologist or candidate that arises in the course of the investigation. 2000, c. 32, s. 33.

Powers of committee

- 34 (1) Where a disciplinary committee
- (a) learns that the registration or licence of a registered psychologist or candidate has been suspended or cancelled for reasons of professional misconduct, conduct unbecoming or incompetence by another licensing or regulatory authority;
 - (b) has provided the registered psychologist or candidate with such notice as it may prescribe of a hearing together with a copy

of the relevant decision of the other licensing or regulatory authority;
and

(c) has heard such evidence as is offered by the registered psychologist or candidate at the hearing as to why the registered psychologist or candidate should not be subject to disciplinary action,

the disciplinary committee may take any of the actions contemplated by Sections 35 or 36.

(2) Where a registered psychologist or candidate has been convicted of an offence pursuant to the *Criminal Code* (Canada) or the *Narcotics Control Act* (Canada), the disciplinary committee may, by such notice as it prescribes, require the registered psychologist or candidate to attend a hearing to establish why the registered psychologist or candidate should not be subject to disciplinary action.

(3) For the purpose of subsection (2), a certificate of conviction of a registered psychologist or candidate is conclusive evidence that a person has committed the offence stated therein unless it is shown by the registered psychologist or candidate that the conviction has been quashed or set aside.

(4) When a disciplinary committee is conducting a hearing pursuant to this Section, it may, if it deems it proper, take any of the actions contemplated by Sections 35 or 36. 2000, c. 32, s. 34.

Investigation committee

35 (1) The Board shall appoint a committee or committees to be known as an investigation committee.

(2) An investigation committee shall be composed of at least three persons.

(3) An investigation committee shall

(a) have as its chair a member of the Board appointed by the Board; and

(b) have as a member at least one person who is not a registered psychologist.

(4) Notwithstanding subsection (3), two members of the committee constitute a quorum.

(5) The committee shall

(a) investigate complaints regarding a discipline matter concerning any registered psychologist or candidate;

(b) investigate any matter referred to the committee by the Registrar;

(c) perform such other duties as may be assigned to it by the Board.

(6) Upon receipt of a written complaint, the committee may

(a) do all things necessary to provide a full and proper investigation;

(b) appoint a person or persons to conduct an investigation or practice audit, or both.

(6A) The investigation committee and each member of the investigation committee have all of the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act* with the exception of the powers of contempt, arrest and imprisonment.

(7) Upon giving to the registered psychologist or candidate a copy of the complaint, the committee may require the registered psychologist or candidate to

(a) submit to a physical or psychological examination by such qualified persons as the committee designates;

(b) submit to an inspection or audit of the practice of the registered psychologist or candidate by such qualified persons as the committee designates;

(c) submit to such examination as the committee directs to determine the competency of the registered psychologist or candidate;

(d) produce records and accounts kept with respect to the practice of the registered psychologist or candidate.

(8) Where the registered psychologist or candidate fails to comply with subsection (7), the committee may suspend or restrict the registration of the registered psychologist or candidate until the person complies.

(9) Where the committee has, pursuant to clause (7)(a), (b) or (c), required a registered psychologist or candidate to submit to a physical or psychological examination or submit to inspection or audit of the person's practice by a qualified person designated by the committee, the committee shall deliver to the registered psychologist or candidate any report it receives from the designated qualified person.

(10) The committee conducting an investigation may

(a) employ such experts as the committee deems necessary;

(b) require the registered psychologist or candidate or any other registered psychologist or candidate who may have information

relevant to the investigation to attend before the committee or the person conducting the investigation to be interviewed;

(c) investigate any other matter relevant to the conduct, capacity or fitness of a registered psychologist or candidate to work as a psychologist that arises in the course of the investigation.

(11) The committee may

- (a) dismiss the complaint;
- (b) attempt to resolve the matter informally;
- (c) with the consent of both parties, refer the matter, in whole or in part, for mediation;
- (d) refer the matter, in whole or in part, to a hearing committee;
- (e) counsel the registered psychologist or candidate;
- (f) caution the registered psychologist or candidate;
- (g) counsel and caution the registered psychologist or candidate;
- (h) reprimand the registered psychologist or candidate with that person's consent; or
- (i) with the consent of the registered psychologist or candidate, require that person to undergo such treatment or re-education as the committee considers necessary.

(12) Where the committee is considering a decision to counsel, caution or counsel and caution a registered psychologist or candidate pursuant to clause 11(e), (f) or (g), the committee shall give notice to the registered psychologist or candidate and that person shall be given the opportunity to appear, with or without legal counsel, before the committee prior to the committee making a decision.

(13) When making findings pursuant to clause 11(e), (f), (g), (h) or (i), a committee may make any combination of the dispositions that are set out therein in accordance with the objects of this Act.

(14) The registered psychologist or candidate and the complainant shall be advised in writing of the decision of the committee. 2000, c. 32, s. 35; 2012, c. 48, s. 39.

Power to suspend

36 (1) Where, during its investigation, a committee

- (a) determines that it may be desirable in the public interest to suspend the registration or restrict the registration of the person being complained of pending the completion of the investigation and,

if a formal complaint is laid, the hearing and adjudication of the formal complaint;

(b) furnishes the person with such notice of determination as may be prescribed by the committee; and

(c) hears such explanation as is offered by such person at the suspension hearing or provided for in such notice,

the committee may suspend the registration of the person or restrict the registration of the person on a temporary basis.

(2) A decision pursuant to subsection (1) continues in force until final resolution by a hearing committee. 2000, c. 32, s. 36.

Preservation of jurisdiction

37 Notwithstanding that a member or members of an investigation committee or a hearing committee have ceased to hold office by reason of the lapse of their appointments, such member or members shall be seized with the jurisdiction to complete any matter the committees have commenced if necessary to retain a quorum and, for this purpose, such member or members continue to have the same powers, privileges, immunities and duties as are provided by this Act and the regulations. 2000, c. 32, s. 37.

Settlement agreement

38 (1) After an investigation committee refers a matter to a hearing committee, pursuant to clause 35(11)(d), the registered psychologist or candidate complained of may, at any time before the commencement of the hearing, tender to the investigation committee a proposed settlement agreement in writing, consented to by legal counsel for the Board that includes an admission of a discipline matter violation or violations and the registered psychologist or candidate's consent to a specified disposition, conditional upon the acceptance of the agreement by a hearing committee.

(2) The investigation committee may, in its discretion, recommend or refuse to recommend acceptance of the proposed settlement agreement by the hearing committee.

(3) Where the investigation committee recommends the acceptance of the proposed settlement agreement, it shall instruct legal counsel for the Board to advise the hearing committee hearing the complaint of its recommendation.

(4) Where the investigation committee refuses to recommend the proposed settlement agreement, the hearing shall proceed without reference to the proposed settlement agreement.

(5) Where the hearing committee appointed to hear the complaint accepts the recommendation of the investigation committee, it shall confirm such acceptance by written decision that incorporates the settlement agreement.

(6) Where the hearing committee appointed to hear the complaint rejects the recommendation of the investigation committee,

(a) it shall advise the Registrar of its decision;

(b) it shall proceed no further with the hearing of the complaint;

(c) a new hearing committee shall be appointed to hear the complaint and no member of the committee that considered the proposed settlement agreement shall be a member of the new committee; and

(d) the investigation committee retains jurisdiction over a complaint until the commencement of the hearing by a hearing committee. 2000, c. 32, s. 38.

Hearing committee

39 (1) A hearing committee shall be appointed for the purpose of hearing any charges relating to a discipline matter against a registered psychologist or candidate when a discipline matter is referred, in whole or in part, to a hearing committee.

(2) A hearing committee shall be composed of at least five persons.

(3) The committee shall have as members

(a) at least one person who is not a registered psychologist who is a member of the Board; and

(b) at least three registered psychologists.

(4) Notwithstanding subsection (3), three members of the committee constitute a quorum.

(5) Subject to the regulations, the hearing committee may do all things necessary to provide a full and proper inquiry.

(6) In a matter over which a hearing committee has jurisdiction, the hearing committee and each member of the committee has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

(7) Upon the application of

(a) any party to the hearing;

- (b) the chair of the hearing committee; or
- (c) legal counsel for the Board or the hearing committee,

the Registrar shall sign and issue a summons to witness for the purpose of procuring the attendance and evidence of witnesses before the hearing committee.

(8) Unless the registered psychologist or candidate has agreed to a shorter notice period, a notice of hearing which states the time and the place of the hearing shall be given to the person complained of at least thirty days before the hearing. 2000, c. 32, s. 39.

Evidence

40 (1) Evidence is not admissible before a hearing committee unless, at least ten days before the hearing, the opposing party has been given

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or
- (c) in the case of evidence of a witness, the identity of the witness.

(2) Notwithstanding subsection (1), a hearing committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced. 2000, c. 32, s. 40.

Conduct of hearings

41 (1) Subject to subsection (2), a hearing shall be open to the public.

(2) The hearing committee may make an order that the public, in whole or in part, be excluded from a hearing or any part of a hearing if the hearing committee is satisfied that

- (a) matters involving public security may be disclosed;
- (b) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or
- (c) the safety of a person may be jeopardized.

(3) Where it thinks fit, the hearing committee may make orders it considers necessary to prevent the public disclosure of matters disclosed at a hearing, including orders prohibiting publication or broadcasting of those matters.

(4) No order shall be made pursuant to subsection (3) that prevents the publication of anything that is contained in the register and available to the public.

(5) The hearing committee may make an order that the public be excluded from the part of a hearing dealing with a motion pursuant to subsection (2).

(6) The hearing committee may make any order necessary to prevent the public disclosure of matters disclosed in the submission relating to any motion referred to in subsection (5), including prohibiting the publication or broadcasting of those matters.

(7) Subject to any orders pursuant to this Section, the hearing committee shall state, at the hearing, its reasons for any order made pursuant to this Section. 2000, c. 32, s. 41.

Limit on persons attending

42 Where a hearing committee makes an order pursuant to subsection 41(2) wholly or partly because of the desirability of avoiding disclosure of matters in the interest of a person affected,

(a) the committee shall allow the parties, the complainant and their legal and personal representatives; and

(b) the committee may allow such other persons as the committee considers appropriate,

to attend the hearing. 2000, c. 32, s. 42.

Protection of identity of witness

43 A hearing committee shall, on the request of a witness, other than the person, whose testimony is in relation to allegations of misconduct of a sexual nature by the person involving the witness, make an order that no person shall publish the identity of the witness or any information that could disclose the identity of the witness. 2000, c. 32, s. 43.

Treatment of evidence

44 (1) The hearing committee holding a hearing shall ensure that

(a) the oral evidence is recorded;

(b) copies of the transcript of the hearing are available to a party at the party's request and expense, the complainant at the complainant's request and expense and other persons the hearing committee or the Registrar considers appropriate at those persons' request and expense; and

(c) copies of the transcript of any part of the hearing that is not closed nor the subject of an order prohibiting publication are available to any person at that person's expense.

(2) Where a transcript of a part of a hearing that is the subject of an order for prohibiting publication is filed with a court in respect of proceedings, only the court, the parties to the proceedings and the complainant may examine it unless the court or the hearing committee orders otherwise. 2000, c. 32, s. 44.

Rights of party at hearing

45 At a hearing, a party may

- (a) be represented by legal counsel;
- (b) call and examine witnesses and present arguments and submissions;
- (c) conduct cross-examination of witnesses. 2000, c. 32, s. 45.

Rights and duties of hearing committee

46 (1) A hearing committee

- (a) shall hear each case in such manner as it deems fit;
- (b) may require the registered psychologist or candidate to
 - (i) submit to physical or psychological examinations by such qualified persons as the committee designates,
 - (ii) submit to an inspection or audit of the registered psychologist or candidate's practice by such qualified persons as the committee designates,
 - (iii) submit to such examination as the committee directs to determine the competency of the registered psychologist or candidate, and
 - (iv) produce records and accounts kept with respect to the registered psychologist or candidate's practice;
- (c) may, where the registered psychologist or candidate fails to comply with clause (b), resolve that the registration of the registered psychologist or candidate be suspended until the registered psychologist or candidate does comply;
- (d) shall, where the committee has, pursuant to subclause (b)(i), (ii) or (iii), required a registered psychologist or candidate to submit to physical or psychological examinations or submit to inspection or audit of the practice by a qualified person designated by the committee, deliver to the registered psychologist or candidate any report it receives from the designated qualified person;
- (e) shall determine whether the registered psychologist or candidate is guilty of charges relating to a discipline matter, and

(i) where there is a guilty finding, may determine that

(A) the registration of the registered psychologist be cancelled,

(B) the name of a candidate be removed from the Register of Candidates,

(C) the registration of a registered psychologist be suspended

(I) for a fixed period, or

(II) for an indefinite period until the occurrence of some specified future event or until compliance with conditions prescribed by the committee,

(D) conditions, limitations or restrictions be imposed upon the registration of the registered psychologist or candidate,

(E) the registered psychologist or candidate undergo such treatment or re-education as the committee considers necessary,

(F) restitution be made,

(G) such fine as the committee considers appropriate, to a maximum of fifteen thousand dollars, be paid by the registered psychologist or candidate to the Board for the purpose of funding education and research as determined by the Board,

(H) the registered psychologist or candidate be reprimanded,

(I) such other disposition as it considers appropriate be imposed, or

(ii) where there is a not guilty finding, the committee shall dismiss the charges; and

(f) shall file its decision, including reasons, at the office of the Board.

(2) When making dispositions pursuant to clause (1)(e), the committee may impose one or more of the penalties that are set out therein, or the committee may make such other dispositions as it considers appropriate, in accordance with the objects of this Act.

(3) The Registrar shall provide the registered psychologist or candidate, the complainant and such other persons as the Registrar considers appropriate with a copy of the decision of the hearing committee except that, where there are

references identifying clients or other persons other than the complainant, those references, as well as other personal information about those persons, shall be deleted where, in the Registrar's opinion, this is appropriate.

(4) The decision of a hearing committee has effect immediately upon service on the registered psychologist or candidate or from such time as the decision may direct. 2000, c. 32, s. 46.

Inadmissibility of evidence in legal proceeding

46A (1) In this Section,

(a) "civil proceeding" means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) "legal proceeding" means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of an investigation committee or a hearing committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Board, including any information gathered in the course of an investigation or produced for an investigation committee, a hearing committee or staff members of the Board.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Board.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of an investigation committee or a hearing committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act. 2008, c. 3, s. 15.

Costs

47 (1) In this Section, "costs of the Board" include

(a) expenses incurred by the Board, the investigation committee and the hearing committee;

(b) honoraria paid to members of the investigation committee and the hearing committee; and

(c) solicitor-and-client costs and disbursements of the Board relating to the investigation and hearing of the complaint.

(2) Where a hearing committee finds a registered psychologist or candidate guilty of charges relating to a discipline matter, it may order that the registered psychologist or candidate pay the costs of the Board, in whole or in part.

(3) Where a registered psychologist or candidate is ordered to pay costs pursuant to subsection (2), the Board may make it a condition of the registration or licence of the registered psychologist or candidate that such costs be paid forthwith, or at such time and on such terms as the Board may fix. 2000, c. 32, s. 47.

Appeal to Nova Scotia Court of Appeal

48 (1) The registered psychologist or candidate complained against may appeal on any point of law from the findings of the hearing committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be served upon the Registrar and the complainant.

(3) The record on appeal from the findings of a hearing committee shall consist of a copy of the transcript of the proceedings, the decision of the committee and the evidence before the hearing committee, certified by the chair of the hearing committee.

(4) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act apply *mutatis mutandis* to appeals to the Nova Scotia Court of Appeal pursuant to this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this Section, the Nova Scotia Court of Appeal has jurisdiction to, pending a decision of the Nova Scotia Court of Appeal, grant a stay of any order made pursuant to this Act where, in its discretion, it deems it appropriate. 2000, c. 32, s. 48.

Application for re-instatement

49 (1) A person whose registration has been cancelled by a decision of a hearing committee may apply to the Board for re-instatement.

(2) An application for re-instatement after cancellation of registration or removal from the Register of Candidates shall be considered as a new application, but the Board shall take into account in reaching its decision the reasons for the cancellation or removal from the register. 2000, c. 32, s. 49.

GENERAL

Publication of decisions

50 (1) Subject to any publication bans, the Board shall publish a hearing committee's decision or summary of the decision in its annual report and may publish the decision or summary in any other publication.

(2) Where the registration of a registered psychologist or candidate has been revoked or suspended by a decision of a hearing committee or where conditions, limitations or restrictions are imposed on the registration of a registered psychologist or candidate, the Board shall place a notice in such publications as it deems necessary in order to inform the public. 2000, c. 32, s. 50.

Complaint under former Act

51 For greater certainty, a complaint made pursuant to the former Act shall continue to be proceeded with in accordance with this Act as nearly as circumstances permit. 2000, c. 32, s. 51.

Matter pending before Board

52 (1) Upon the coming into force of this Act, any matter pending before the Board pursuant to the former Act shall, where not set down for a hearing to commence within sixty days of the coming into force of this Act, be transferred to a hearing committee appointed pursuant to this Act for hearing and determination, but otherwise shall be heard and determined by the Board pursuant to the former Act.

(2) Notwithstanding subsection (1), the parties may agree that a matter pending be transferred to a hearing committee appointed pursuant to this Act.

(3) The Board pursuant to the former Act shall be continued until all matters pending before it at the coming into force of this Act and not transferred to a hearing committee appointed pursuant to this Act have been finally decided. 2000, c. 32, s. 52.

Repeal

53 The former Act is repealed. 2000, c. 32, s. 53.

Proclamation

54 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2000, c. 32, s. 54.

Proclaimed	-	May 31, 2002
In force	-	June 3, 2002