



# **BILL NO. 121**

*Government Bill*

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*2nd Session, 63rd General Assembly  
Nova Scotia  
68 Elizabeth II, 2019*

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## **An Act Respecting the Regulation of Nursing**

CHAPTER 8  
ACTS OF 2019

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
APRIL 12, 2019**

The Honourable Randy Delorey  
*Minister of Health and Wellness*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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## **An Act Respecting the Regulation of Nursing**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Nursing Act*.

**2** In this Act,

“approved education program” means an education program approved by the Board that qualifies an applicant for registration;

“Board” means the Board of the College;

“bridging education” means a program approved by the Chief Executive Officer that addresses gaps in competencies identified through a competence assessment or through information otherwise provided to the College;

“by-law” means a by-law of the College;

“caution” means a determination by the Complaints Committee that a registrant may have breached the standards of professional ethics or practice but in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity;

“Chief Executive Officer” means the Chief Executive Officer and Registrar of the College appointed by the Board;

“client” means the individual, group, community or population who is the recipient or intended recipient of services from a registrant, and, where the context requires, includes a substitute decision-maker for the recipient or intended recipient of nursing services;

“College” means the Nova Scotia College of Nursing;

“committee” includes regulatory committees and committees appointed by the Board;

“competence” means the ability to integrate and apply competencies in a designated role and practice setting;

“competence assessment” means a process approved by the Chief Executive Officer for assessing competence;

“competencies” means the knowledge, skills and judgement required to practise safely and ethically;

“complaint” means a notice submitted to the College in the form approved by the Chief Executive Officer that advises of matters that may constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a registrant;

“Complaints Committee” means the Complaints Committee appointed under this Act;

“conditional licence” means a licence with conditions or restrictions issued under this Act;

“conduct unbecoming the profession” means conduct in a registrant’s personal or private capacity that tends to bring discredit upon registrants or the nursing profession;

“continuing-competence program” means a program approved by the Board that focuses on promoting and enhancing the competence of registrants throughout their careers;

“costs” includes

- (a) expenses incurred by the College for investigating and deciding a matter;
- (b) costs of competence assessments, other assessments, audits, examinations and practice reviews conducted by the College in the course of addressing a matter;
- (c) the College’s solicitor and client costs, including disbursements and goods and services tax, including those of College counsel and counsel for a committee;
- (d) fees for retaining a court reporter and preparing transcripts;
- (e) travel costs and reasonable expenses of a witness, including an expert witness;
- (f) honoraria for committee members and travel costs and reasonable expenses of committee members; and
- (g) such other costs as may be prescribed by the regulations;

“currency of practice requirements” means those requirements set out in the by-laws that a registrant must meet to establish the registrant is current in practice;

“designation” means a title authorized by this Act or the regulations for use by a registrant;

“Education Program Approval Committee” means the Education Program Approval Committee appointed under to this Act;

“electronic means” means the use of telephone, facsimile, television, video conferencing, cable, internet, intranet or other form of electronic or computerized communication;

“employer” includes the health authority, hospital, clinic, person or entity that hires a registrant to engage in practice, regardless of the employment status of the registrant;

“entry-level competencies” means the integrated knowledge, skills and judgement expected and required of students upon completion of an approved education program;

“expanded scope of practice” means those services not presently in the scope of practice of a particular designation, but within the scope of practice of the nursing profession, approved by the Board for practice by registrants who have completed education approved for that purpose by the Board;

“Fitness to Practise Committee” means the Fitness to Practise Committee appointed under this Act;

“fitness-to-practise process” means the fitness-to-practise process set out in this Act to address issues of incapacity;

“former Act” means Chapter 17 of the Acts of 2006, the *Licensed Practical Nurses Act* or Chapter 21 of the Acts of 2006, the *Registered Nurses Act*, as the context requires;

“hearing” means a process before a regulatory committee, other than the Complaints Committee, Registration and Licensing Committee or the Fitness to Practise Committee, in which the parties may lead evidence, but does not include the consideration by the Profes-

sional Conduct Committee of a settlement agreement or an application for consent revocation;

“incapacity” means the status whereby a registrant has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the registrant unable to practise with competence or that endangers or may have endangered the health or safety of clients;

“incompetence”, in relation to a registrant, means a lack of competence demonstrated in the registrant’s care of a client or delivery of nursing services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the client or delivery of nursing services or that renders the respondent unsafe to continue in practice without remedial assistance;

“individual scope of practice” means the services for which a registrant is educated, authorized and competent to perform;

“investigator” means a person designated by the Chief Executive Officer to conduct or supervise an investigation into a complaint or an application for reinstatement;

“judge” means a judge of the Supreme Court of Nova Scotia;

“legacy College” means the College of Licensed Practical Nurses of Nova Scotia or the College of Registered Nurses of Nova Scotia, as the context requires;

“legal proceeding” means a civil proceeding, a discovery, an inquiry or a 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 a proceeding or hearing conducted under this Act or the regulations;

“licence” means a licence issued under this Act to a registrant authorizing the registrant to engage in practice in accordance with the terms of the licence, and includes a conditional licence and such other category of licence as may be set out in the regulations;

“licensing” means the process by which a person who has qualified for registration is assessed to determine whether the person meets the criteria for a licence under this Act and the regulations;

“licensed practical nurse” means a member of the nursing profession qualified to use the designation “licensed practical nurse”;

“licensing sanction” means

(a) the imposition of conditions or restrictions on a licence by the Complaints Committee or the Professional Conduct Committee or an equivalent body from another jurisdiction, but does not include conditions or restrictions imposed through the interim process set out in Section 81, or through an informal resolution process under this Act;

(b) a consent reprimand ordered by the Complaints Committee or an equivalent body from another jurisdiction;

(c) a reprimand issued by the Professional Conduct Committee or an equivalent body from another jurisdiction;

(d) a fine ordered by the Professional Conduct Committee;

(e) a suspension of a licence by the Professional Conduct Committee or an equivalent body from another jurisdiction; or

(f) a revocation of registration or licence by the Professional Conduct Committee or an equivalent body from another jurisdiction;

but does not include a caution;

“licensing year” means the 12-month period established by the Board for the term of a licence;

“Minister” means the Minister of Health and Wellness;

“nurse practitioner” means a member of the nursing profession qualified to use the designation “nurse practitioner”;

“nursing designation” means licensed practical nurse, nurse practitioner, registered nurse and any other designation authorized for use by a registrant in the nursing profession as may be approved by this Act or the regulations;

“nursing profession” means the profession that comprises registrants of all nursing designations regulated under this Act and the regulations;

“nursing services” means the application of specialized and evidence-based knowledge of nursing theory, health and biological, physical, behavioural, psychosocial or sociological sciences inclusive of principles of primary health care, in a variety of roles including clinical services to clients, research, education, consultation, management, administration, regulation, policy or system development relevant to such application, and such other services, roles, functions, competencies and activities for each nursing designation that are related to and consistent with the foregoing, including those

- (a) described in Section 174 or prescribed by the regulations;
- (b) taught in an approved education program;
- (c) authorized for practice under federal or Provincial legislation; and
- (d) generally accepted as constituting the practice of nursing;

“party” means the College or a respondent, as the context requires;

“physician” means a medical practitioner licensed by the College of Physicians and Surgeons of Nova Scotia under the *Medical Act*;

“practice” means the practice of nursing;

“practice of nursing” means the provision of nursing services;

“Practice Review Committee” mean the Practice Review Committee appointed under to this Act;

“practising licence” means a licensed practical nurse practising licence, a nurse practitioner practising licence, a registered nurse practising licence or such other practising licence as may be established in the regulations, as the context requires;

“primary health care” means the first level of a client’s care in the health system requiring a strong foundation of community-based services that enables clients to maintain and strengthen their health based on a population health model, and includes health promotion and disease prevention, education, acute episodic care, advocacy, support and treatment for illness and injury, continuing care of chronic conditions, rehabilitation and palliation;

“profession” means the nursing profession;

“Professional Conduct Committee” means the Professional Conduct Committee appointed under this Act;

“professional-conduct process” means the professional-conduct processes set out in this Act, the regulations and the by-laws;

“professional misconduct” includes such conduct or acts relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional, including

- (a) failing to maintain the standards of practice;
- (b) failing to adhere to any codes of ethics adopted by the College;
- (c) abusing a person verbally, physically, emotionally or sexually;
- (d) misappropriating personal property, drugs or other property belonging to a client or an employer;
- (e) inappropriately influencing a client to make or change a legal document;
- (f) abandoning a client;
- (g) neglecting to provide care to a client;
- (h) failing to exercise appropriate discretion with respect to the disclosure of confidential information;
- (j) falsifying records;
- (k) inappropriately using licensing status for personal gain;
- (l) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe;
- (m) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading;
- (n) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise or taking any examination provided for in this Act, including using fraudulently procured credentials; and
- (o) taking or using a designation or a derivation or abbreviation thereof, or describing the person’s activities as “nursing” in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the practice of nursing;

“public representative” means a member of the Board or a committee who is not a registrant;

“register” means a register established under this Act;

“registered nurse” means a member of the nursing profession qualified to use the designation “registered nurse”;

“re-entry program” means a program approved by the Board that tests competencies and provides for a period of preceptored clinical practice;

“registrant” means a person whose name is entered in a register;

“registration” means the process by which a person who is not registered is initially assessed to determine whether the person meets the criteria for registration under this Act and the regulations;

“Registration and Licensing Committee” means the Registration and Licensing Committee appointed under this Act;

“Registration and Licensing Review Committee” means the Registration and Licensing Review Committee appointed under this Act;

“regulatory committee” means the Registration and Licensing Committee, the Registration and Licensing Review Committee, the Complaints Committee, the Professional Conduct Committee, the Fitness to Practise Committee, the Education Program Approval Committee, the Reinstatement Committee or the Practice Review Committee, as the context requires;

“regulatory processes” means those processes conducted under this Act, the regulations or by-laws by a regulatory committee;

“Reinstatement Committee” means the Reinstatement Committee appointed under this Act;

“respondent” means the person who is the subject of a complaint or other regulatory process under this Act or the regulations;

“scope of practice of the designation” means the services authorized for practice by a registrant holding a particular designation;

“scope of practice of the nursing profession” means the combined scopes of practice of the nursing designations;

“self-assessment tool” means a document or information prepared by a registrant containing a self-assessment of the registrant for the purpose of the continuing-competence program;

“settlement agreement” means an agreement that resolves a complaint after a matter has been referred for hearing by the Complaints Committee;

“standards of practice” means the minimal professional practice expectations for a registrant of a particular designation in a setting or role, approved by the Board;

“witness” includes every person who, in the course of a legal proceeding, is examined for discovery, is cross-examined upon an affidavit made by that person, answers any interrogatories, makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes any representative of the College, including a member of the Board or a committee and an employee or agent of the College.

## COLLEGE

- 3**    **(1)**    The Nova Scotia College of Nursing is established as a body corporate.
- (2)**    The College has power to acquire, hold, lease, mortgage and otherwise dispose of real property.



(3) All assets, records, property and liabilities held by either of the legacy Colleges are vested in the College.

(4) The legacy Colleges are dissolved.

4 (1) The objects of the College are to

- (a) serve and protect the public interest in the practice of the profession;
- (b) subject to the public interest, preserve the integrity of the profession; and
- (c) maintain public and registrants' confidence in the ability of the College to regulate the profession.

(2) In order to effectively carry out the objects of the College, the College shall

(a) regulate the provision of nursing services and govern its registrants through

(i) the registration, licensing, professional conduct, education approval and other processes set out in the Act and the regulations,

(ii) the approval and promotion of a code of ethics, and

(iii) the establishment and promotion of

(A) standards of practice for the provision of nursing services,

(B) entry-level and other competencies, and

(C) continuing-competence programs;

(b) advance and promote the provision of nursing services;

(c) be accountable to the Minister, the public and the registrants; and

(d) do all such other lawful acts and things as are incidental to the attainment of the objects of the College.

5 (1) Subject to Section 6,

(a) the College has a Board consisting of a minimum of 10 persons at least one of whom must be a licensed practical nurse and one a registered nurse;

(b) the number of public representatives on the Board must be not less than 33% and not more than 50% of the Board;

(c) public representatives on the Board are appointed by the Governor in Council;

(d) members, other than public representatives of the Board, are elected or appointed as prescribed in the regulations and by-laws;

(e) the filling of vacancies on the Board is as set out in the by-laws;

(f) a Board member whose term of office expires remains a member of the Board until a new member is appointed or the member is reappointed; and

(g) a majority of the Board members, including at least one public representative and such other members as may be set out in the regulations, constitutes a quorum.

(2) No employee of the College may serve on the Board or any committee.

6 (1) There shall be an initial Board of the College, selected in accordance with the process determined by the Board of the College of Licensed Practical Nurses of Nova Scotia and the Council of the College of Registered Nurses of Nova Scotia, consisting of

(a) three members of the College of Licensed Practical Nurses of Nova Scotia who served on the Board of that College within one year of the coming into force of this Section;

(b) three members of the College of Registered Nurses of Nova Scotia who served on the Council of that College within one year of the coming into force of this Section; and

(c) five public representatives who served on the Board or Council of a legacy College within one year of the coming into force of this Section.

(2) The Chair and the Vice-chair of the initial Board shall be elected or appointed by the initial Board as determined by the Board of the College of Licensed Practical Nurses of Nova Scotia and the Council of the College of Registered Nurses of Nova Scotia.

(3) The members of the initial Board hold office for two- or three-year terms as determined by the Board.

(4) A vacancy on the initial Board must be filled in such manner as set out in the by-laws.

(5) A majority of the initial Board members, including at least one public representative and such other members as set out in the by-laws, constitutes a quorum.

7 (1) The Board shall govern the College and in so doing shall

(a) set fees payable by applicants and registrants;

(b) determine the remuneration and reimbursement for expenses payable to Board and committee members;

(c) approve the processes for setting, revising and monitoring the annual budget;

(d) submit an audited financial statement of the College's operations for the past year at the annual meeting of the College;

(e) appoint an auditor who shall audit the accounts of the College;

(f) set the form and amount of professional liability insurance or other form of malpractice coverage or liability protection a registrant must have;

(g) establish governance policies consistent with the Act and the regulations; and

(h) review the operation of this Act and the regulations and make recommendations thereon.

(2) The Board may, by resolution, take any action consistent with this Act and the regulations.

**8** (1) The Board shall appoint a Chief Executive Officer and Registrar of the College and determine the remuneration, conditions of appointment, term of office and duties of the Chief Executive Officer.

(2) The Chief Executive Officer shall

(a) manage the operations of the College; and

(b) establish procedures for implementing the regulatory processes authorized under this Act, the regulations and the by-laws.

(3) The Chief Executive Officer may delegate any functions assigned to the Chief Executive Officer by this Act, the regulations or the by-laws.

**9** (1) Subject to this Act and the regulations, the Board shall govern, control and administer the affairs of the College and, without limiting the generality of the foregoing, may make by-laws

(a) respecting annual and special meetings of the College including the notice for such meetings, the procedure to be followed, required content and quorum;

(b) setting the number of members and composition of the Board;

(c) setting out eligibility for Board membership including the number of consecutive terms a Board member may serve and the waiting period before a Board member who has served the maximum number of consecutive terms becomes eligible to serve again;

(d) establishing the timing and manner of elections or appointments to the Board;

(e) respecting the manner in which vacancies on the Board may be filled and the procedure for removing Board members;

(f) determining the officers of the Board, their roles and terms of office, number of consecutive terms an officer may serve and the waiting period before an officer who has served the maximum number of consecutive terms becomes eligible to serve again;

(g) respecting the holding of Board meetings, including the number of required meetings, the notice for such meetings, the procedure to be followed and the manner of voting;

(h) respecting the procedure for calling and holding special Board meetings;

(i) respecting the publication of information about and from Board meetings;

(j) respecting all matters relating to registration and licensing examinations;

(k) respecting currency of practice requirements for each designation;

- (l) respecting the continuing-competency program for each designation;
- (m) determining content of the registers and records to be kept for each category of licence, in addition to that required by this Act;
- (n) respecting the content of information made available to the public regarding the licensing status of each registrant, in addition to that required by this Act;
- (o) determining the processes for verification of a registrant's compliance with the continuing-competence program;
- (p) requiring registrants to maintain records of their hours in practice and permitting the College to audit such records;
- (q) setting out the reporting requirements for a nurse practitioner regarding a change in the client population of the nurse practitioner's practice;
- (r) respecting the content and service of a notice of hearing for the professional-conduct process;
- (s) respecting witness fees for hearings;
- (t) respecting the recording of evidence during a regulatory process;
- (u) respecting the preservation of evidence gathered during a regulatory process;
- (v) establishing committees, in addition to those established under this Act, to carry out the business of the College, by determining
  - (i) the names, authority, powers, duties and quorums for the committees,
  - (ii) the composition of the committees, including the requirement for public representation,
  - (iii) the manner of appointment, terms of office and qualification of committee members, and
  - (iv) their functions, processes and procedures;
- (w) creating categories of affiliation with the College and prescribing rights of, qualifications for and obligations of persons in those categories;
- (x) subject to Section 46, respecting the process and criteria for an applicant, other than a registrant, to engage in the practice of nursing;
- (y) respecting the composition of regulatory committees, beyond the requirements of this Act, including requiring the inclusion of committee members from specified designations;
- (z) respecting the approval procedure for expanded scopes of practice and for educational prerequisites for expanded scopes of practice;
- (za) respecting the seal of the College;
- (zb) establishing the location of the head office of the College;
- (zc) approving a code of ethics, standards of practice and competencies for registrants;

(zd) respecting fines and penalties; and

(ze) respecting all other things necessary for the administration of the affairs of the College.

(2) The Chief Executive Officer shall send a copy of a proposed by-law, or an amendment to a by-law, to each registrant in accordance with Section 162 and publish notice of a proposed by-law or amendment to a by-law on the College's website for a minimum of 30 days with a request for feedback.

(3) The Board shall consider any feedback received before making a by-law.

(4) A by-law comes into force on the day it is approved, unless otherwise provided in the resolution approving it.

(5) The Chief Executive Officer shall ensure that all by-laws are published and made available to the public and registrants in an accessible format, including by publication on the College's website.

(6) Notwithstanding subsections (2) to (4), the by-laws approved by the legacy Colleges as the first set of by-laws for the College are the by-laws of the College upon the coming into force of this Act.

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

(a) respecting whether registrant members of the Board, other than the initial Board, are required to be elected or appointed, and by whom;

(b) requiring public advertising of openings for public representatives on regulatory committees;

(c) respecting the terms of office for members of the Board other than the initial Board and other than the term for serving as an officer;

(d) establishing minimum educational requirements for entry into the profession for each designation;

(e) prescribing further registration and licensing criteria;

(f) establishing the authority of and processes to be used by the Reinstatement Committee when reviewing an application for reinstatement;

(g) respecting the number, name and type of registers in addition to those set out in this Act;

(h) respecting additional categories of licensing;

(i) modifying the scope of practice for a particular designation;

(j) creating additional nursing designations to be regulated under this Act and providing for their

(i) scope of practice,

(ii) use,

- (iii) rights, privileges and obligations,
- (iv) registration and licensing criteria, and
- (v) regulatory processes;
- (k) prescribing additional powers and authority for a regulatory committee;
- (l) establishing the procedure for processing and addressing settlement agreements;
- (m) providing for practice audits;
- (n) prescribing the requirements and process for the incorporation of registrants;
- (o) respecting the functions of the Practice Review Committee and the process for practice reviews;
- (p) further regulating the custodianship process;
- (q) authorizing an award of costs;
- (r) determining which committees may award costs;
- (s) prescribing legislation, a violation of which may require a registrant to attend a hearing;
- (t) prescribing additional exemptions to the prohibition on providing nursing services without holding a licence;
- (u) defining any word or expression used but not defined in this Act;
- (v) further defining any word or expression defined in this Act;
- (w) respecting any matter or thing the Board considers necessary or advisable to effectively carry out the intent and purpose of this Act.

**(2)** The exercise by the Board of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**(3)** The Chief Executive Officer shall send a copy of a proposed regulation or amendment to a regulation to each registrant in accordance with Section 162 and publish notice of a proposed regulation or amendment to a regulation on the College's website for a minimum of 30 days with a request for feedback.

**11 (1)** Subject to the approval of the Governor in Council, the Minister may make regulations respecting the authority to appoint and dismiss public representatives as members of regulatory committees.

**(2)** The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**12 (1)** The Board shall provide to the Minister

- (a) a copy of the College's annual report; and

(b) such additional information as the Minister may require to ensure that the College is fulfilling its duties and responsibilities under the Act, the regulations and the by-laws.

(2) The Board shall make its annual report available in an accessible format to registrants and the public, including by publication on the College's website.

(3) The Board shall publish such records of its meetings as required by the by-laws.

**13** The Chief Executive Officer shall publish on the College's website

(a) the name and registration number of all registrants;

(b) with respect to a particular registrant,

(i) the name of the register in which a registrant is registered,

(ii) the licence held,

(iii) any conditions or restrictions that are not covered by a publication ban, and

(iv) any licensing sanctions not covered by a publication ban;

(c) a record of all registrants authorized to engage in an expanded scope of practice, the nature of the expanded scope and any conditions or restrictions respecting that expanded scope; and

(d) such other information as may be set out in the by-laws.

#### REGISTRATION AND LICENSING

**14** (1) The following are the registers to be kept by the Chief Executive Officer:

(a) Licensed Practical Nurses Register;

(b) Nurse Practitioners Register;

(c) Registered Nurses Register;

(d) Licensed Practical Nurses Conditional Register;

(e) Nurse Practitioners Conditional Register;

(f) Registered Nurses Conditional Register; and

(g) such other registers as may be prescribed in the regulations.

(2) A register must include the following information for each registrant:

(a) the name of the registrant;

(b) a unique registration number;

(c) the name and location of an education program attended;

(d) graduation date from an education program;

(e) the date of entry in the register; and

- (f) such other information as may be set out in the by-laws.
- (3)** A conditional register must include
- (a) the information required under subsection (2);
  - (b) the conditions or restrictions under which a registrant is registered; and
  - (c) such other information as may be set out in the by-laws.
- (4)** The Chief Executive Officer shall annotate a registrant's information in a register
- (a) when the registration of the registrant is revoked;
  - (b) when the registrant resigns;
  - (c) if there is a change in the registrant's name;
  - (d) if there is an error on the register;
  - (e) when the Chief Executive Officer determines the registrant no longer meets the criteria for registration; and
  - (f) under such other circumstances where it is determined appropriate by the Chief Executive Officer.

**15 (1)** The Chief Executive Officer shall keep separate records for the following categories of licence:

- (a) licensed practical nurse practising;
  - (b) licensed practical nurse conditional;
  - (c) nurse practitioner practising;
  - (d) nurse practitioner conditional;
  - (e) registered nurse practising;
  - (f) registered nurse conditional; and
  - (g) such other categories as may be set out in the regulations.
- (2)** The records kept under subsection (1) must include
- (a) the name of the registrant who meets the criteria for the category of licence;
  - (b) the register in which the registrant's name is entered;
  - (c) the registrant's current contact information;
  - (d) the issuance and expiry dates of the registrant's licence;
  - (e) any conditions or restrictions on the licence;
  - (f) any licensing sanctions imposed on the registrant; and
  - (g) such other information as may be set out in the by-laws.



- when
- (3) The Chief Executive Officer shall annotate the record for a category of licence
    - (a) there is a licensing sanction;
    - (b) the registrant resigns;
    - (c) there is a change in the registrant's name;
    - (d) there are conditions or restrictions agreed upon or imposed under this Act or the regulations, that are not subject to a publication ban;
    - (e) the licence expires;
    - (f) the Chief Executive Officer determines the registrant no longer meets the criteria for the category of licence issued to the registrant;
    - (g) there is an error in the record; and
    - (h) in such other circumstances as determined by the Chief Executive Officer.

**16 (1)** The Board shall appoint a Registration and Licensing Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

(2) The Board shall appoint the Chair of the Registration and Licensing Committee.

(3) The Registration and Licensing Committee shall perform registration and licensing functions under this Act, the regulations and the by-laws.

(4) Where a matter is referred to the Registration and Licensing Committee, the Chair of the Committee shall appoint a panel of at least three members of the Committee to act as the Registration and Licensing Committee, at least one of whom must be a public representative.

(5) The Chair of the Registration and Licensing Committee shall appoint a chair for the panel selected under subsection (4) from among the members of the Committee, including the Chair of the Committee.

(6) A quorum of the panel of the Registration and Licensing Committee consists of three members, at least one of whom must be a public representative and the remainder of whom must hold such designations as are set out in the by-laws.

(7) When performing registration and licensing functions under this Act, the regulations and the by-laws, the Chief Executive Officer, the Registration and Licensing Committee and each member of the Committee have all of the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**17 (1)** The Board shall appoint a Registration and Licensing Review Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

(2) The Board shall appoint the Chair of the Registration and Licensing Review Committee.

(3) The Registration and Licensing Review Committee shall perform registration and licensing reviews under this Act, the regulations and the by-laws.

(4) Where a matter is referred to the Registration and Licensing Review Committee, the Chair of the Committee shall appoint a panel of at least three members of the Committee to act as the Registration and Licensing Review Committee, at least one of whom must be a public representative.

(5) The Chair of the Registration and Licensing Review Committee shall appoint a chair for the panel selected under subsection (4) from among the members of the Committee, including the Chair of the Committee.

(6) A quorum of the panel of the Registration and Licensing Review Committee consists of three members, at least one of whom must be a public representative and the remainder of whom must hold such designations as set out in the by-laws.

(7) When performing registration and licensing review functions under this Act, the regulations and the by-laws, the Chief Executive Officer, the Registration and Licensing Review Committee and each member of the Committee have all of the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**18 (1)** An applicant for registration on any register other than a conditional register shall submit a completed application in a form approved by the Chief Executive Officer together with

(a) payment of the applicable fee, within the time determined by the Chief Executive Officer and in a method acceptable to the Chief Executive Officer;

(b) proof satisfactory to the Chief Executive Officer that the applicant is a graduate of

(i) an approved education program for the designation for which the applicant seeks to be registered,

(ii) an education program in another jurisdiction in or outside of Canada that rendered the applicant eligible for registration in that jurisdiction, in the same scope of practice for which registration is sought with the College, or

(iii) an education program in another jurisdiction in or outside of Canada that, together with the additional education and experience of the applicant, as determined by the Chief Executive Officer, provides the applicant with the competencies to practise in the same scope of practice for which registration is sought with the College;

(c) proof satisfactory to the Chief Executive Officer that the applicant

(i) has successfully completed such examinations as approved by the Board for the designation sought by the applicant,

(ii) has demonstrated proficiency in the English language, in the manner prescribed by the Chief Executive Officer,

(iii) has the capacity, competence, and character to safely and ethically engage in practice,

(iv) has no outstanding complaints, prohibitions, conditions, agreements or restrictions from any registration or licensing authority that would preclude registration on a register other than a conditional register,

(v) is the person named in the documentation submitted in support of the application,

(vi) is eligible for a practising licence under this Act, and

(vii) meets any additional criteria for registration set out in the regulations;

(d) any information the Chief Executive Officer requires to establish that subsection 45(2) does not apply to the applicant; and

(e) any additional information required by the regulations.

**(2)** In addition to the criteria in subsection (1), where an applicant seeks registration on the Nurse Practitioners' Register, the applicant must first be registered on the Registered Nurses' Register.

**19** Where an applicant does not meet all of the criteria for registration under Section 18 but the Chief Executive Officer determines it is consistent with the objects of the College to grant registration subject to conditions or restrictions, the Chief Executive Officer may

(a) grant registration on a conditional register subject to such conditions or restrictions as are determined by the Chief Executive Officer; or

(b) refer the matter to the Registration and Licensing Committee to determine whether to grant registration on a conditional register subject to such conditions or restrictions as are determined by the Committee.

**20 (1)** An applicant for a practising licence must submit a completed application in a form approved by the Chief Executive Officer together with

(a) payment of the applicable fee, within the time determined by the Chief Executive Officer and in a method acceptable to the Chief Executive Officer; and

(b) proof satisfactory to the Chief Executive Officer that the applicant

(i) continues to meet the criteria in subclauses 18(1)(c)(i), (iii), (v) and (vii),

(ii) has professional liability insurance or other form of malpractice coverage or liability protection in the form and amount set by the Board,

(iii) meets the requirements of the continuing-competence program for the designation for which a licence is sought,

(iv) meets the currency of practice requirements for the designation for which a licence is sought,

(v) has no prohibitions, conditions, agreements or restrictions on the applicant's ability to practise from any registration or licensing authority,

(vi) is registered on the register of the same designation for which the practising licence is sought, and

(vii) meets such additional criteria as may be set out in the regulations.

**(2)** In addition to the criteria in subsection (1), where an applicant seeks a Nurse Practitioner's practising licence, the applicant must first hold a current Registered Nurse's practising licence.

**(3)** In assessing whether an applicant meets the criteria for a practising licence under subsection (1), the Chief Executive Officer may

(a) require an applicant to satisfactorily complete such competence assessments and bridging education as determined by the Chief Executive Officer; and

(b) limit the duration of or impose conditions or restrictions on a licence for non-compliance with a continuing-competency program.

**21 (1)** After receiving the information required from an applicant for registration or licensing or for renewal of the applicant's licence, the Chief Executive Officer shall

(a) approve the application and issue the registration, licence or renewal of licence if the Chief Executive Officer determines that the criteria have been met;

(b) deny the application if the Chief Executive Officer determines that the applicant does not meet the criteria;

(c) impose conditions or restrictions on the registration, licence or renewal of licence if the Chief Executive Officer determines that the objects of the College require the imposition of such conditions or restrictions; or

(d) refer the application to the Registration and Licensing Committee if the Chief Executive Officer determines that there is an issue regarding whether the applicant meets the criteria for registration, licensing or renewal of licence or whether conditions or restrictions should be imposed.

**(2)** When issuing a licence under this Section, the Chief Executive Officer shall decide the effective term of the licence.

**(3)** Where the Chief Executive Officer denies the application or imposes conditions or restrictions on the registration, licence or renewal of licence, the Chief Executive Officer shall notify the applicant by

(a) providing the applicant with a written decision with reasons; and

(b) informing the applicant of the applicant's right to have the decision reviewed by the Registration and Licensing Review Committee.

**(4)** Where the Chief Executive Officer issues the registration, licence or renewal of licence under clause (1)(a) or (c), the Chief Executive Officer shall record the name of the registrant in the relevant register and in the record for the category of licence.

**22 (1)** Where an application is referred to the Registration and Licensing Committee either under clause 21(1)(d) or under the regulations or by-laws, the Registration and Licensing

Committee shall review the application and such other information as the Chief Executive Officer provides.

**(2)** When considering an application for registration, licensing or the renewal of a licence, the Registration and Licensing Committee may

- (a) request that the Chief Executive Officer obtain additional information;
- (b) require an applicant to satisfactorily complete such competence assessments and bridging education as determined by the Committee; and
- (c) extend the term of an applicant's existing registration or licence until it has made a decision.

**(3)** Where the Registration and Licensing Committee determines that an applicant meets the criteria for registration, licensing or renewal of a licence, the Committee shall approve the application and direct the Chief Executive Officer to register the applicant or issue or renew the licence and to record the name of the applicant in the appropriate register and in the record for the category of licence.

**23** Where the Registration and Licensing Committee determines that an applicant does not meet the criteria for registration or licensing or renewal of a licence and denies the application or imposes conditions or restrictions on the licence, the Committee shall notify the applicant by

- (a) providing the applicant with a written decision with reasons; and
- (b) informing the applicant of the applicant's right to have the decision reviewed by the Registration and Licensing Review Committee as set out in Section 35.

**24** A registrant who holds a practising licence may

- (a) use the titles and abbreviations authorized by this Act, for the designation in which the registrant has been registered and licensed;
- (b) practise within the registrant's individual scope of practice;
- (c) practise within any expanded scope of practice that may be approved by the Chief Executive Officer for that registrant in accordance with the process set out in the by-laws;
- (d) serve as an appointed member on any committee of the College;
- (e) receive all official College publications;
- (f) attend, participate and vote at meetings of the College; and
- (g) enjoy such other privileges as set out in the by-laws.

**25 (1)** Except as provided in subsection (2), a practising licence remains in effect until the end of the licensing year in which it is issued or such earlier expiry date specified on the licence by the Chief Executive Officer or the committee approving the licence.

**(2)** A practising licence ceases to be valid if

- (a) it is suspended or revoked;

- (b) the registrant's registration is revoked;
- (c) there are conditions or restrictions placed on the registrant through agreement or as the result of a decision under a regulatory process under this Act; or
- (d) the licence is surrendered in accordance with this Act.

**26** In addition to paying the applicable fee and any penalties incurred for late application, a registrant applying to renew a practising licence shall submit a completed application in a form approved by the Chief Executive Officer together with

- (a) proof satisfactory to the Chief Executive Officer that the registrant continues to meet the licensing criteria set out in Section 20; and
- (b) where the registrant has practised outside the Province in the previous year, proof satisfactory to the Chief Executive Officer that the registrant has no outstanding complaints, prohibitions, conditions or restrictions that would preclude the issuing of a practising licence in the Province.

**27** The Chief Executive Officer shall issue a conditional licence and record the registrant's name as holding a conditional licence in a specified designation if

- (a) the registrant meets the requirements of Section 20, except the requirements of subclause 20(1)(b)(v), and the Chief Executive Officer determines it is consistent with the objects of the College to issue a licence subject to conditions or restrictions; or
- (b) the registrant does not meet the requirements of Section 20, but conditions or restrictions have been agreed upon or imposed by the Chief Executive Officer, the Registration and Licensing Committee or the Registration and Licensing Review Committee or as a result of a decision of a regulatory committee under this Act.

**28** A registrant who holds a conditional licence has all of the privileges set out in Section 24, except to the extent that the restrictions or conditions modify those privileges.

**29 (1)** Except as provided in subsection (2), a conditional licence remains in effect until the end of the licensing year, or such earlier expiry date specified on the conditional licence by the Chief Executive Officer or the committee issuing the licence.

- (2) A conditional licence ceases to be valid if
  - (a) the licence is suspended or revoked;
  - (b) the registrant's registration is revoked;
  - (c) the registrant fails to comply with the conditions or restrictions on the registrant's licence;
  - (d) the licence is changed through the imposition of different conditions or restrictions; or
  - (e) the licence is surrendered in accordance with this Act.

**30** In addition to paying the applicable fee and any penalties incurred for late application, a registrant applying to renew a conditional licence shall submit a completed application on a form approved by the Chief Executive Officer together with

(a) proof satisfactory to the Chief Executive Officer that the registrant continues to meet the licensing criteria set out in Section 27; and

(b) where the registrant practised outside the Province in the previous year, proof satisfactory to the Chief Executive Officer respecting any outstanding complaints, prohibitions, conditions or restrictions, to enable the Chief Executive Officer to determine the conditions or restrictions required.

**31** Conditions or restrictions agreed upon or ordered by the Complaints Committee, the Professional Conduct Committee, the Fitness to Practise Committee or the Reinstatement Committee may not be reviewed or appealed when a registrant applies for the renewal of the registrant's conditional licence, and the relevant committee retains jurisdiction over any conditions or restrictions imposed by it.

**32** Restrictions or conditions imposed on a conditional licence that have not expired remain in effect on any new licence issued to the registrant.

**33** Where the right of a registrant to practise has been limited by the imposition of conditions or restrictions under this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with this Act unless a publication ban has been imposed by the Chief Executive Officer or committee imposing the conditions or restrictions.

**34 (1)** Where required by the by-laws, a nurse practitioner who is seeking to practise with a different client population shall report the proposed change to the Chief Executive Officer and seek approval under subsection (2) prior to commencing practice with the different client population.

**(2)** Where the Chief Executive Officer receives a report under subsection (1), the Chief Executive Officer shall refer the matter to the Registration and Licensing Committee to determine whether the nurse practitioner is approved to practise with the different client population.

**(3)** The Registration and Licensing Committee may require a nurse practitioner to complete a competence assessment and bridging education before determining whether the nurse practitioner is approved to practise with a different client population.

**35 (1)** Where an applicant or registrant

(a) has been refused registration;

(b) has been refused a licence;

(c) has been refused the renewal of a licence; or

(d) has conditions or restrictions imposed on a registration or licence,

the applicant or registrant must be provided with written reasons for such decision by the decision-maker, and the applicant or registrant may, by written notice to the Chief Executive Officer sent within 30 days of receipt of the written reasons, seek a review of that decision by the Registration and Licensing Review Committee.

- (2) An applicant requesting a review shall
  - (a) stipulate the grounds for review; and
  - (b) pay the applicable fee.

(3) The fee paid under clause (2)(b) must be refunded to the applicant if the review results in the granting of registration or the issuing of a licence.

**36** As soon as practicable after receipt of a request for a review, the Chief Executive Officer shall provide the Registration and Licensing Review Committee and the applicant with

- (a) a copy of the written decision being reviewed;
- (b) a copy of all records related to the application in the possession of the College, subject to any lawful restrictions; and
- (c) any written information the Chief Executive Officer considers necessary.

**37** (1) The Registration and Licensing Review Committee may determine its own procedure, which may include

- (a) ordering pre-review processes, including pre-review conferences that are held in private, and directing the times, dates and places for those processes;
- (b) ordering that a review, parts of such review or a pre-review process under clause (a) be conducted using a means of telecommunication that permits the parties and the committee to communicate simultaneously;
- (c) administering oaths and affirmations;
- (d) receiving and accepting any evidence and information on oath by, affidavit or otherwise as the Registration and Licensing Review Committee considers fit, whether or not admissible in a court of law;
- (e) adjourning or postponing a proceeding;
- (f) amending or permitting the amendment of any document filed in connection with the proceeding;
- (g) requesting that the Chief Executive Officer obtain additional information;
- (h) extending the term of a registrant's existing registration or licence until it has made a decision; and
- (i) such other procedures the Registration and Licensing Review Committee deems consistent with the objects of the College.

(2) The Registration and Licensing Review Committee may determine whether a review is to be conducted through written submissions or whether the parties have a right of attendance before the Committee for the presentation of evidence or to make submissions.



**38** Where the Registration and Licensing Review Committee determines to grant a right of attendance, the Committee shall fix a reasonable time and place for the review and determine whether the right of attendance will be for submissions only or for the presentation of evidence.

**39** The Chief Executive Officer shall provide written notice of a review process that requires the applicant's attendance to the applicant at least 14 days before the date set for the review.

**40 (1)** The parties to a review are the College and the applicant.

**(2)** In proceedings before the Registration and Licensing Review Committee, the parties have the right to

(a) representation by legal counsel at their own expense;

(b) where the Committee has determined to grant a right of attendance, the opportunity to present evidence and make submissions; and

(c) disclosure of all relevant information and documents.

**(3)** The applicant is a compellable witness in a review.

**(4)** Where submissions or evidence is presented during a review, the proceedings must be electronically recorded.

**(5)** Where requested by a party, the Registration and Licensing Review Committee may impose a publication ban at any time during a review, or on some or all of its decision, subject to such terms and conditions as determined by the Committee.

**41 (1)** Subject to subsection (2), evidence is not admissible at a review unless the opposing party has been given, at least 10 days before the date of the review,

(a) for written or documentary evidence, an opportunity to examine the evidence;

(b) for expert evidence, the expert's qualifications and a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and

(c) the identity of any other witness and a summary of the witness's anticipated evidence.

**(2)** The Registration and Licensing Review Committee may allow the introduction of evidence that would be otherwise inadmissible and may make any directions it considers necessary to ensure that a party is not prejudiced by the admission of the evidence.

**42** Where an applicant fails to attend a review, the Registration and Licensing Review Committee may proceed with the review in the applicant's absence and take any action authorized under this Act and the regulations.

**43 (1)** The Registration and Licensing Review Committee shall render its decision with reasons as soon as practicable after

- (a) the completion of an oral review; or
- (b) where no oral review is held, completion of its review of the written evidence and written submissions.

**(2)** The Registration and Licensing Review Committee may make any decision the Chief Executive Officer or the Registration and Licensing Committee could have made with respect to the application, and may

- (a) order the imposition of conditions or restrictions on the registration or licence of the applicant; or
- (b) assess costs to be paid by the applicant if the application for review is denied.

**44** The Chief Executive Officer, the Registration and Licensing Committee and the Registration and Licensing Review Committee may waive any of the criteria for registration or licensing or renewal of a licence if

- (a) it is required by law; or
- (b) it is consistent with the objects of the College.

#### PRACTICE

**45 (1)** A registrant shall

- (a) comply with this Act, the regulations, by-laws, code of ethics and standards of practice;
- (b) co-operate with the College, the Chief Executive Officer and any committees of the College with respect to any regulatory process or requirements under the Act, the regulations and the by-laws;
- (c) maintain current contact information with the College;
- (d) maintain a record of practice hours;
- (e) maintain such professional liability insurance or other form of malpractice coverage or liability protection as required by the Board when holding a practising licence;
- (f) practise only within
  - (i) the registrant's individual scope of practice and scope of practice of the designation held by that registrant,
  - (ii) any terms, conditions or restrictions of the registrant's licence, and
  - (iii) any expanded scope of practice authorized for that registrant in accordance with this Act and the by-laws;
- (g) report to the Chief Executive Officer if the registrant has reasonable grounds to believe that another registrant
  - (i) has engaged in professional misconduct, incompetence or conduct unbecoming the profession,

- (ii) is incapacitated, or
- (iii) is practising in a manner that otherwise constitutes a danger to the public;

(h) report to the regulator of another health profession if the registrant has reasonable grounds to believe that a member of that health profession

- (i) has engaged in professional misconduct, incompetence or conduct unbecoming the profession as those terms apply to that health profession,
- (ii) is incapacitated, or
- (iii) is practising in a manner that otherwise constitutes a danger to the public.

(2) Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, pleaded guilty to, been convicted of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a registrant, including a conviction under

- (i) the *Criminal Code* (Canada),
- (ii) the *Controlled Drugs and Substances Act* (Canada), or
- (iii) such other legislation as may be prescribed in the regulations;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction; or

(d) is the subject of an investigation or disciplinary process in any jurisdiction,

and the person is a registrant or applies for registration or a licence or the renewal of a licence, the Chief Executive Officer may, by such notice as the Chief Executive Officer prescribes, require the person to attend a meeting before the Complaints Committee or, where the person is not a registrant, the Registration and Licensing Committee, to fully disclose the facts and circumstances of any of the matters referred in subsection (2).

(3) Clause (2)(a) does not apply to a person in respect of a matter for which a pardon has been issued or a record suspension has been ordered.

(4) After hearing from the person under subsection (2), the committee may take any of the actions authorized to be taken by the committee under this Act or the regulations.

(5) For the purpose of subsection (2), a certificate of conviction of a person is conclusive evidence that the person has committed the offence stated in the certificate, unless it is proved that the conviction has been quashed or set aside.

(6) Where any of the criteria set out in subsection (2) apply to a registrant or to a person seeking registration or a licence or the renewal of a licence, the registrant or person seeking registration or a licence shall report the matter to the Chief Executive Officer immediately.

(7) No action for damages or other relief lies against a registrant for any report made under clause (1)(g) or (h) if such report was made in good faith.

- 46 (1)** A person, other than a registrant, who is seeking to practise in the Province and
- (a) intends to practise for a limited time and purpose in the Province; or
  - (b) is a student enrolled in a nursing program other than an approved education program,

shall apply to the Chief Executive Officer in such form as set out by the Chief Executive Officer and must

- (c) meet the criteria approved by the Chief Executive Officer;
- (d) agree to such terms, conditions or restrictions as may be imposed by the Chief Executive Officer; and
- (e) receive approval from the Chief Executive Officer

before engaging in the practice of nursing.

(2) The Chief Executive Officer may withdraw the approval granted under subsection (1) if the Chief Executive Officer believes it is in the public interest to do so.

(3) A person other than a registrant or person specified in subsection (1) may engage in the practice of nursing in the Province if

- (a) the person is a student enrolled in an approved education program and is authorized by the administrators of that program to engage in practice as part of such program;
- (b) the person is permitted to engage in practice as otherwise provided in this Act, the regulations or the by-laws; or
- (c) the person is exempt from this Act as set out in Section 170.

**47** No person shall engage in the practice of a licensed practical nurse or shall take or use the designation “Licensed Practical Nurse”, “LPN”, “L.P.N.”, or any derivation or abbreviation thereof either alone or in combination with other words, letters or descriptions to imply that the person is registered or licensed under this Act unless the person

- (a) is a registrant and holds a license as a licensed practical nurse; or
- (b) is otherwise authorized to practise as a licensed practical nurse or to use the relevant designation, in accordance with this Act, the regulations or the by-laws.

**48** No person shall engage in the practice of a nurse practitioner or take or use the designation “Nurse Practitioner”, “NP”, “N.P.”, or any derivation or abbreviation thereof either alone or in combination with other words, letters or descriptions to imply that the person is registered or licensed under this Act unless the person

- (a) is a registrant and holds a license as a nurse practitioner; or
- (b) is otherwise authorized to practise as a nurse practitioner or to use the relevant designation in accordance with this Act, the regulations or the by-laws.

**49** No person shall engage in the practice of a registered nurse or take or use the designation “Registered Nurse”, “RN”, “R.N.”, or any derivation or abbreviation thereof either alone or in combination with other words, letters or descriptions to imply that the person is registered or licensed under this Act unless the person

- (a) is a registrant and holds a license as a registered nurse; or
- (b) is otherwise authorized to practise as a registered nurse or to use the relevant designation in accordance with this Act, the regulations or the by-laws.

**50** No person shall take or use the description “nurse” or any derivation or abbreviation thereof to imply that the person is entitled to engage in the practice of nursing or shall describe the person’s activities as “nursing” unless the person

- (a) is a registrant and holds a licence in one of the nursing designations;
- (b) is permitted to engage in the practice of nursing or to use the relevant description as otherwise provided in this Act, the regulations or the by-laws; or
- (c) on the coming into force of this Act, is a person whose name appears on the Certified Graduate Nurses List, maintained by the former College of Registered Nurses of Nova Scotia, naming persons who graduated from a nursing education program but who did not meet the requirements to qualify as a registered nurse.

**51** In any advertisement or publication, including business cards, websites and signage, no person shall take or use the designation “licensed practical nurse”, “nurse”, “nurse practitioner”, “registered nurse”, or any other designation approved by this Act or the regulations, or any derivation or abbreviation thereof to imply that the person is entitled to engage in the practice of nursing, or shall describe the person’s activities as “nursing” unless authorized to do so by this Act or the regulations and the referenced activity falls within the definition of the “practice of nursing”.

**52** For the purpose of this Act and the regulations,

- (a) a registrant in the Province who is engaged in practice by electronic means with clients outside of the Province is deemed to be practising in the Province;
- (b) a person, other than a registrant, who resides outside of the Province and who engages in practice by electronic means with clients within the Province is deemed not to be practising in the Province; and
- (c) nothing in this Act prohibits the practice of the profession in the Province or the recovery of fees or compensation for professional services rendered by a person registered in another country, state, territory or province and whose engagement requires that person to accompany and temporarily care for a client during the period of the engagement, if that person does not represent or hold himself or herself out as a person registered under this Act.

**53** Subject to clause 52(c), no person shall bring an action in any court to collect fees, compensation or other remuneration for services performed in the Province, unless that person was the holder of a licence at the time the services were performed.

**54 (1)** A registrant who engages in practice outside the Province, who was subject to any licensing sanctions while outside the Province or who has outstanding complaints or allegations of incapacity from outside the Province, shall not engage in practice on the registrant's return to the Province before providing the Chief Executive Officer with notice of such licensing sanctions, complaints or allegations, and receiving notice from the Chief Executive Officer that the registrant is authorized to resume practice in the Province.

**(2)** Where the Chief Executive Officer receives notice under subsection (1), the Chief Executive Officer may

- (a) initiate a complaint;
- (b) with the consent of the registrant, refer the matter to the Fitness to Practise Committee;
- (c) reach agreement with the registrant on conditions or restrictions on the registrant's licence; or
- (d) impose conditions or restrictions on the registrant's licence, and notify the registrant of the registrant's right of review under Section 35.

#### PROFESSIONAL CONDUCT

**55 (1)** In accordance with the objects of the College, the purpose of the professional-conduct process is to address professional misconduct, conduct unbecoming the profession, incompetence and, unless addressed through the fitness-to-practise process, incapacity.

**(2)** The College shall investigate, on its own initiative or on the complaint of a person, alleged instances of misconduct, conduct unbecoming the profession, incompetence or incapacity and, where appropriate, dispose of the matter in accordance with this Act, the regulations or the by-laws.

**(3)** Except where considered prejudicial to the attainment of the objects of the College, the professional-conduct process must take into account the potential for the rehabilitation of the respondent.

**(4)** The Chief Executive Officer, investigators, the Complaints Committee, the Professional Conduct Committee, the Reinstatement Committee and the chairs of such committees shall perform such functions and have such authority as is set out in this Act, the regulations or the by-laws.

**56** Where a person ceases to be registered or licensed for any reason by the College, such person remains subject to the jurisdiction of the College for the purpose of the professional-conduct process if the subject-matter of the professional-conduct process arose out of the person's conduct while registered or licensed.

**57** The Board shall appoint a Complaints Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

**58 (1)** The Board shall appoint a Chair and a Vice-chair of the Complaints Committee.

(2) The Vice-chair shall act as chair in the absence of the Chair.

(3) Where neither the Chair nor the Vice-chair is available for the purpose of subsection 59(1) or (3), the Chair may appoint another member of the Complaints Committee to chair the Committee.

**59** (1) Upon receipt of a referral or a request for a review of a complaint, the Chair of the Complaints Committee shall appoint a panel of at least three members of the Committee to act as the Complaints Committee, at least one of whom must be a public representative.

(2) The Chair of the Complaints Committee may sit on the panel and shall act as the chair of the panel in this case.

(3) Where the Chair of the Complaints Committee is not appointed to the panel, the Chair of the Complaints Committee shall appoint a chair for the panel.

**60** (1) Failure of one or more Complaints Committee members to receive notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of a meeting.

(2) A quorum of the Complaints Committee consists of any two members of the panel appointed under subsection 59(1), at least one of whom must be a public representative and the remainder of whom must hold such designations as set out in the by-laws.

(3) A Complaints Committee decision requires the vote of a majority of the panel of the Committee appointed under subsection 59(1).

(4) Where a proceeding is commenced before the Complaints Committee and the term of office of a member sitting on the Committee expires, that member may remain part of the Committee until the proceeding is concluded.

**61** When performing their functions as set out in this Act, the regulations or the by-laws, the Chief Executive Officer, an investigator and the members of a Complaints Committee have all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**62** (1) A complaint may be initiated by

- (a) the Chief Executive Officer;
- (b) a committee of the College; or
- (c) any other person.

(2) Where the Chief Executive Officer and the complainant agree, a complaint may be withdrawn.

**63** (1) On receiving a complaint, and prior to investigating, the Chief Executive Officer shall

(a) dismiss the complaint and notify the complainant and the respondent of this disposition if the Chief Executive Officer decides that

- (i) the complaint is not within the jurisdiction of the College,
- (ii) the complaint cannot be substantiated,
- (iii) the complaint is frivolous or vexatious,
- (iv) the complaint constitutes an abuse of process,
- (v) the facts alleged, even if proven, do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, or would not merit a caution, or
- (vi) the processing of the complaint would not advance the objects of the College;

(b) informally resolve the complaint if the Chief Executive Officer considers that it may be satisfactorily resolved consistent with the objects of the College;

(c) authorize the resignation of the respondent;

(d) where the respondent and the Chief Executive Officer agree, refer the matter to the fitness-to-practise process; or

(e) begin an investigation and send a copy of the complaint to the respondent.

(2) Where the Chief Executive Officer dismisses the complaint, the Chief Executive Officer may provide written advice relevant to the complaint to

(a) the respondent;

(b) the complainant; and

(c) a person or organization affected by the complaint.

(3) The Chief Executive Officer shall provide a copy of any written advice provided under clause 2(b) or (c) to the respondent.

**64** (1) The Chief Executive Officer may appoint an investigator to conduct an investigation.

(2) When investigating a complaint, the Chief Executive Officer or the investigator may

(a) require the respondent to provide a written or oral response to the matters under investigation within such time as directed;

(b) request documents and written or oral explanations from the complainant, the respondent or third parties;

(c) request an interview with the complainant, the respondent or third parties; and

(d) with the respondent's consent,

(i) where the Chief Executive Officer has reasonable or probable grounds to believe that the respondent has an issue of incapacity, require the



respondent to submit to physical or mental examinations by a qualified person or persons designated by the Chief Executive Officer, and authorize the reports from the examinations to be given to the Chief Executive Officer,

(ii) order a review or audit of the respondent's practice by a qualified person or persons designated by the Chief Executive Officer, and authorize a copy of the review or audit to be given to the Chief Executive Officer, and

(iii) complete a competence assessment to determine whether the respondent is competent to practise, and authorize the assessment report to be given to the Chief Executive Officer.

**(3)** An investigator, the Chief Executive Officer or the Complaints Committee may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute

- (a) professional misconduct;
- (b) conduct unbecoming the profession;
- (c) incompetence; or
- (d) incapacity.

**(4)** A respondent may submit medical and any other information relevant to the complaint to the Chief Executive Officer, an investigator or the Complaints Committee.

**65 (1)** At the conclusion of an investigation, the Chief Executive Officer shall take into account the results of the investigation and

(a) dismiss the complaint and notify the complainant and the respondent if the Chief Executive Officer decides that any of the criteria in clause 63(1)(a) apply;

(b) informally resolve the complaint if the Chief Executive Officer considers that would be consistent with the objects of the College;

(c) authorize the resignation of the respondent;

(d) where the matter may involve incapacity and the respondent agrees, refer the matter to the fitness-to-practise process; or

(e) refer the matter under investigation to the Complaints Committee.

**(2)** The Chief Executive Officer may provide written advice relevant to the complaint to

(a) the respondent;

(b) the complainant; and

(c) a person or organization affected by the complaint.

**(3)** The Chief Executive Officer shall provide a copy of any written advice provided under clause (2)(b) or (c) to the respondent.

**66 (1)** Where the Chief Executive Officer is satisfied that a registrant has engaged in practice without a valid licence, the Chief Executive Officer may fine the registrant an amount as set out in the by-laws.

**(2)** A fine imposed on a registrant under subsection (1) is not a licensing sanction against the registrant and may not be reported on a certificate of standing sent to other regulatory bodies.

**(3)** Where a registrant fails to pay a fine imposed under subsection (1), the Chief Executive Officer shall refer the matter to the Complaints Committee.

**67 (1)** On receipt of a referral under subsection 66(3), the Complaints Committee may direct the Chief Executive Officer to suspend the registrant's licence or suspend the ability of the registrant to obtain a licence until the fine is paid, together with any reinstatement fee ordered by the Complaints Committee.

**(2)** The Chief Executive Officer shall suspend the registrant's licence or ability to obtain a licence in accordance with the direction of the Complaints Committee under subsection (1).

**68** The Chief Executive Officer may take such steps, at the expense of a registrant who has been suspended for non-payment of a fine under Section 66, to bring the suspension to the attention of the public and other affected individuals as the Chief Executive Officer considers necessary.

**69 (1)** No later than 30 days after a complainant is notified of a dismissal by the Chief Executive Officer under clause 63(1)(a) or clause 65(1)(a), the complainant may submit a written request for review of the dismissal to the Chief Executive Officer.

**(2)** Upon receipt of a request under subsection (1), the Chief Executive Officer shall send the request to

- (a) the respondent; and
- (b) the Chair of the Complaints Committee.

**(3)** On receipt of a request for review of a complaint dismissal under subsection (2), the Chair of the Complaints Committee shall appoint a panel of the Complaints Committee to review the dismissal.

**70 (1)** After reviewing the complaint referred under subsection 69(1), any other material considered by the Chief Executive Officer when making the decision to dismiss and the Chief Executive Officer's decision, the Complaints Committee may

- (a) confirm the dismissal of some or all of the complaint; or
- (b) overturn the dismissal of some or all of the complaint and
  - (i) order an investigation of any aspects of the complaint that have not been dismissed, and
  - (ii) refer the matter to be considered by a differently constituted Complaints Committee panel under subsection 59(1).

(2) The Complaints Committee shall render its decision on a review under subsection (1), in writing and with reasons, and provide a copy of the decision as soon as practicable to

- (a) the Chief Executive Officer;
- (b) the complainant; and
- (c) the respondent.

71 A decision of the Complaints Committee under Section 70 is final.

72 The Chief Executive Officer may refer a complaint to the Complaints Committee at any time during an investigation for the Complaints Committee to

- (a) provide direction with regard to the investigation; or
- (b) exercise any of the powers conferred upon it under this Act and the regulations.

73 (1) The Complaints Committee may set its own procedure for investigations and the review of complaints.

(2) Once a matter is referred to the Complaints Committee, the Committee retains jurisdiction over it until such time as

- (a) a hearing commences before the Professional Conduct Committee;
- (b) the Complaints Committee recommends a settlement agreement to the Professional Conduct Committee; or
- (c) where the matter may involve incapacity and the respondent and the Chief Executive Officer agree, the Complaints Committee refers the matter to the fitness-to-practise process.

74 (1) At any time prior to the disposition of a complaint, the Complaints Committee may

- (a) direct any investigation the Committee considers necessary;
- (b) receive information in addition to the information from an investigator if the information is relevant to the matters before it;
- (c) require the respondent to provide a written response to the matters under investigation within such time as directed by the Committee;
- (d) where the matter may involve incapacity and the respondent and the Chief Executive Officer agree, refer the matter to the fitness-to-practise process;
- (e) interview such persons as the Committee in its discretion deems relevant, including the respondent; and
- (f) impose a publication ban on information that may be subject to confidentiality under this Act.

(2) Where the Committee receives additional information under clause (1)(b) the respondent must be given an opportunity to respond to the information prior to the Committee's final disposition of the matter.

75 A respondent to a complaint has the right to

- (a) be represented by legal counsel, a union representative or another representative at the respondent's own cost;
- (b) notice of any matters under investigation;
- (c) a reasonable opportunity to present a response and make submissions in such form as determined by the Committee;
- (d) such other information as natural justice requires; and
- (e) such other information as determined by the Chief Executive Officer.

76 (1) Where a matter is referred to the Complaints Committee, it may

(a) dismiss the complaint and provide any guidance the Complaints Committee considers useful to the complainant, the respondent or any other person associated with the complaint, if the Committee determines that

- (i) the complaint is outside the jurisdiction of the College,
- (ii) the complaint cannot be substantiated,
- (iii) the complaint is frivolous or vexatious,
- (iv) the complaint constitutes an abuse of process,
- (v) the facts alleged, even if proven, would not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, or would not merit a caution, or
- (vi) the processing of the complaint would not advance the objects of the College;

(b) require the respondent to

- (i) submit to physical or mental examinations by a qualified person or persons designated by the Committee, and authorize the reports from the examinations to be given to the Committee,
  - (ii) submit to a review or audit of the respondent's practice by a qualified person or persons designated by the Committee, and authorize a copy of the review or audit to be given to the Committee,
  - (iii) complete a competence assessment as directed by the Committee to determine whether the respondent is competent to practise, and authorize the assessment report to be given to the Committee, or
  - (iv) produce any records or documents kept about the respondent's practice that the Committee deems relevant;
- (c) informally resolve the complaint, including authorizing the respondent's resignation from the register and any relevant category of licensing;

(d) caution the respondent;

(e) with the respondent's consent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent, the complainant and any other person the Committee considers appropriate;

(f) with the respondent's consent, impose conditions or restrictions, or both, on the respondent's registration or licence;

(g) where the matter may involve incapacity, and the respondent and the Chief Executive Officer agree, refer the matter to the fitness-to-practise process; and

(h) where a determination is made that the matter warrants a hearing, refer the matter to the Professional Conduct Committee.

(2) Unless it dismisses a complaint under clause (1)(a), the Complaints Committee shall give the respondent a reasonable opportunity to appear before the Committee, and may request other persons to appear before it before it disposes of a complaint.

(3) An informal resolution under clause (c) may include costs if the parties agree.

(4) A disposition issued under clause (e) or (f) may include costs.

**77** Where a respondent fails to comply with requirements under clause 76(1)(b) or otherwise fails to comply with any direction from the Complaints Committee or the Professional Conduct Committee, the Complaints Committee may suspend or restrict the respondent's licence until the suspension or restriction is lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee.

**78** Expenses incurred by a respondent to comply with a requirement under clause 76(1)(b) must be paid by the College but may be awarded as costs against the respondent under Section 164.

**79 (1)** Where a matter has been referred to the Professional Conduct Committee under clause 76(1)(h), the College or the respondent may submit a proposed settlement agreement to the other party for consideration as a means of resolving the matter.

(2) A proposed settlement agreement must include

(a) sufficient facts to provide context for the admissions of the respondent;

(b) an admission by the respondent to one or more of the matters referred to the Professional Conduct Committee;

(c) the respondent's consent to a specified disposition, conditional upon the acceptance of the settlement agreement by the Professional Conduct Committee assigned to review the proposed settlement agreement; and

(d) an agreement on the amount of costs to be paid, and the timing for such payment.

(3) Where the respondent and the Chief Executive Officer agree to the proposed terms of a settlement agreement, the proposed agreement must be processed in accordance with the procedure set out in the regulations.

(4) The Complaints Committee and the Professional Conduct Committee have the authority to address the proposed settlement agreement as set out in the regulations.

**80 (1)** Once the Complaints Committee has completed its investigation, it shall issue a written decision, with reasons, and direct the Chief Executive Officer, subject to any publication bans ordered by the Committee, to send

- (a) a copy of the written decision to the respondent;
- (b) a copy of the written decision or a summary of the decision to the complainant; and
- (c) some or all of the written decision, or a summary of the decision, to such other persons as the Complaints Committee determines.

(2) Where the decision of the Complaints Committee involves a licensing sanction, the Committee shall forward the decision to the Chief Executive Officer for publication in accordance with Section 107.

**81 (1)** Notwithstanding any other provision of this Act, where the Complaints Committee finds there are reasonable and probable grounds to believe that

- (a) a respondent is exposing or likely to expose the public, clients, the profession or the registrant to harm or injury; and
- (b) intervention is required prior to the disposition of the matter by the Complaints Committee or the Professional Conduct Committee,

the Complaints Committee may, at its discretion, pending or following the completion of an investigation, direct the Chief Executive Officer to

- (c) suspend the respondent's licence;
- (d) impose restrictions or conditions on the respondent's licence; or
- (e) where a respondent does not hold a current licence, suspend the ability of the respondent to obtain a licence,

until the suspension, restrictions or conditions are lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee, as the case may be.

(2) The respondent must receive, forthwith, notice in writing, with reasons of a decision made under subsection (1).

(3) Within 30 days of receiving written notice under subsection (2), a respondent may request, in writing, an opportunity to meet with the Complaints Committee.

(4) Where a request is received under subsection (3), the Complaints Committee shall

- (a) provide an opportunity for the respondent to meet with the Committee within 10 days of receiving the written request; and
- (b) after meeting with the respondent, confirm, vary or terminate the suspension, restrictions or conditions imposed under subsection (1).

- (5) Where a meeting is held under subsection (4), the respondent has the right to
- (a) be represented by legal counsel, a union representative or another representative at the respondent's own cost;
  - (b) disclosure of the complaint, any written report of an investigator provided to the Complaints Committee and any other document produced or received by the Committee; and
  - (c) a reasonable opportunity to present a response and make submissions.

(6) Where the Complaints Committee makes a decision under subsection (1), it shall provide a copy of the decision to the respondent and shall determine whether any aspects of its decision should be provided to other affected individuals, other regulatory bodies in other jurisdictions, any past, present or intended employer of the respondent and the public.

(7) The Complaints Committee may set its own procedures for matters involving the exercise of its authority under this Section.

**82** The Board shall appoint a Professional Conduct Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

**83 (1)** The Board shall appoint a Chair and a Vice-chair of the Professional Conduct Committee.

(2) The Vice-chair shall act as chair in the absence of the Chair.

(3) Where neither the Chair nor the Vice-chair is available for the purpose of subsection 84(1) or (3), the Chair may, for such purpose, appoint a member of the Professional Conduct Committee as chair of the Committee.

**84 (1)** Where the Complaints Committee refers a matter to the Professional Conduct Committee, the Chair of the Professional Conduct Committee shall appoint a panel to act as the Professional Conduct Committee, consisting of at least three persons from the Professional Conduct Committee, one of whom must be a public representative.

(2) The Chair of the Professional Conduct Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the Chair of the Professional Conduct Committee is not appointed to the panel, the Chair shall appoint a chair for such panel.

**85 (1)** Failure of one or more Professional Conduct Committee members to receive notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes Committee members from waiving notice of a meeting.

(2) A quorum of the Professional Conduct Committee consists of any three members of the panel appointed under subsection 84(1), at least one of whom must be a public representative and the remainder of whom must hold such designations as set out in the by-laws.

**(3)** A decision of the Professional Conduct Committee requires the vote of a majority of the panel of the Committee appointed under subsection 84(1).

**(4)** Where a proceeding is commenced before the Professional Conduct Committee and the term of office of a person sitting on the Committee expires, that person may remain part of the Professional Conduct Committee until the proceeding is concluded.

**86** When performing their functions as set out in this Act, the regulations and the by-laws, the members of the Professional Conduct Committee have all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**87 (1)** Where the Complaints Committee refers a matter to the Professional Conduct Committee, the Chief Executive Officer shall fix a date, time and place for a hearing, which must commence on such date as the respondent and the Chief Executive Officer may agree.

**(2)** Where the respondent and Chief Executive Officer cannot agree on a date under subsection (1), the Professional Conduct Committee may set the date following an opportunity for submissions on the matter from both parties.

**(3)** A notice of hearing, containing such information as required by the by-laws, must be forwarded by the Chief Executive Officer to the respondent and the complainant at least 30 days prior to the hearing, or such other date as the respondent and the Chief Executive Officer may agree or the Professional Conduct Committee may order, following an opportunity for submissions from both parties as to such date.

**88 (1)** At any time before or during a hearing, the Professional Conduct Committee may, on its own motion or on the motion of a party to the hearing, amend the notice of hearing to

(a) correct a defect in substance or form; or

(b) make the notice conform to the evidence, if there appears to be a difference between the evidence and the notice or if the evidence discloses that any of the following may be established during the hearing that is not stated in the notice:

(i) professional misconduct,

(ii) conduct unbecoming the profession,

(iii) incapacity, or

(iv) incompetence.

**(2)** A respondent must be given an opportunity to respond to an amendment to a notice of hearing made under subsection (1).

**(3)** After receiving the respondent's response under subsection (2), the Professional Conduct Committee may

(a) approve the amendment, subject to such terms and conditions that the Committee deems appropriate; or



(b) decide that an amendment or alteration to the notice of hearing should not be made and may refer any new allegations to the Chief Executive Officer for processing as a new complaint under this Act and the regulations.

**89 (1)** A document required to be served or provided to a respondent or other person is deemed to be served or provided if the process set out in the by-laws is followed.

**(2)** After receiving proof of service of the notice of hearing in accordance with the by-laws, the Professional Conduct Committee may proceed with the hearing in the respondent's absence and take any action authorized under this Act and these regulations without further notice to the respondent.

**90** The Chief Executive Officer shall give public notice of a scheduled hearing through its website or any alternative means the Chief Executive Officer considers appropriate, including notice of

- (a) the date, time and location of the hearing;
- (b) an application for an order to exclude the public under Section 91; and
- (c) such other information as may be set out in the by-laws.

**91 (1)** Except as provided in this Section, a hearing is open to the public.

**(2)** At the request of a party, the Professional Conduct Committee may order that the public, in whole or in part, be excluded from a hearing or any part of it if the Professional Conduct Committee is satisfied that

- (a) personal, medical, financial or other matters that may be disclosed at the hearing are of such a nature that avoiding public disclosure of those matters in the interest of the public or any person affected outweighs adhering to the principle that hearings should be open to the public;
- (b) the safety of any person may be jeopardized by permitting public attendance; or
- (c) the integrity of the hearing process may be compromised.

**(3)** The Professional Conduct Committee may order that the public be excluded from a part of a hearing that deals with a request for an order to exclude the public under subsection (2).

**(4)** The Professional Conduct Committee may make any order that it considers necessary, including an order prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in the professional-conduct process or in a part of a hearing dealing with an order under subsection (2) or (3).

**92 (1)** The parties to a hearing are the College and the respondent.

**(2)** The complainant is not a party to a hearing.

**93** Where a complaint may involve incapacity, and the respondent and the Chief Executive Officer agree, the Professional Conduct Committee may refer the matter to the Fitness to Practise Committee.

**94** The Professional Conduct Committee may determine its own processes provided they are consistent with this Act, the regulations and the by-laws, and it is not bound by the rules of evidence.

**95 (1)** Witnesses at a hearing must testify under oath or affirmation.

**(2)** An oath or affirmation may be administered by any member of the Professional Conduct Committee or other person in attendance authorized by law to administer oaths or affirmations.

**96** In a proceeding before the Professional Conduct Committee, the parties have the right to

- (a) natural justice;
- (b) be represented by legal counsel, a union representative or another representative at the party's own expense;
- (c) the opportunity to present evidence, make submissions and cross-examine witnesses;
- (d) know all the evidence considered by the Committee; and
- (e) receive written reasons for a decision within 30 days.

**97 (1)** Subject to subsections (2) and (3), evidence is not admissible before the Professional Conduct Committee unless the opposing party has been given, at least 10 days before a hearing,

- (a) for written or documentary evidence, an opportunity to examine the evidence;
- (b) for expert evidence, the expert's qualifications and a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and
- (c) the identity of any other witness and a summary of the witness's anticipated evidence.

**(2)** The Professional Conduct Committee may extend beyond 10 days the time required for an opposing party to be provided with evidence under clause (1)(b).

**(3)** The Professional Conduct Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (1) and may make directions it considers necessary to ensure that a party is not prejudiced.

**98 (1)** During a hearing, the Professional Conduct Committee may order the respondent to

(a) submit to physical or mental examinations by a qualified person or persons designated by the Committee, and authorize the reports from the examinations to be given to the Committee;

(b) submit to a review or audit of the respondent's practice by a qualified person or persons designated by the Committee, and authorize a copy of the review or audit to be given to the Committee;

(c) complete a competence assessment as directed by the Committee to determine whether the respondent is competent to practise, and authorize the assessment report to be given to the Committee; and

(d) produce records or documents kept about the respondent's practice that the Committee deems relevant.

**(2)** Where a respondent fails to comply with a requirement under subsection (1), the Professional Conduct Committee may suspend the respondent's licence or ability to apply for a licence until the respondent complies.

**99** Expenses incurred by a respondent to comply with a requirement under subsection 98(1) must be paid by the College, but may be awarded as costs against the respondent under Section 164.

**100 (1)** The Professional Conduct Committee shall render a written decision at the conclusion of a hearing, with reasons, that addresses whether

(a) the allegations in the notice of hearing have been proven; and

(b) the proven allegations amount to professional misconduct, conduct unbecoming the profession, incompetence or incapacity.

**(2)** Subject to any publication bans ordered by the Professional Conduct Committee where a decision under subsection (1) involves a finding of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee may direct the Chief Executive Officer to

(a) send a copy of the written decision to the respondent;

(b) send a copy of the decision or a summary of the decision to the complainant and such other persons as directed by the Committee; and

(c) publish and distribute the decision or a summary of the decision pursuant to Section 108.

**101** Where the Professional Conduct Committee dismisses all allegations against a respondent, the Committee shall, following consultation with the respondent and the Chief Executive Officer, determine the extent of the publication and distribution of the decision.

**102 (1)** Where the Professional Conduct Committee has determined that one or more of the allegations in the notice of hearing have been proven and amount to professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee must set a date for the resumption of the hearing following consultation with the parties, to determine the disposition of the matter.

(2) The provisions of Sections 90 to 101 apply with necessary changes to the resumption of a hearing under subsection (1).

**103 (1)** Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity on the part of a respondent it may

- (a) revoke the respondent's registration;
- (b) revoke any licence held by the respondent;
- (c) for a respondent whose licence has expired, revoke the respondent's ability to register or be licensed, or require the respondent to comply with any conditions or restrictions imposed by the Committee before registration or licensure is granted;
- (d) authorize the respondent to resign from the register and direct the Chief Executive Officer to annotate the College's records accordingly;
- (e) suspend the respondent's licence for a specific period of time and direct the Chief Executive Officer to remove the respondent's name from the applicable College records;
- (f) suspend the respondent's ability to obtain a specified licence for a specified period of time;
- (g) suspend a licence held by the respondent until conditions ordered by the Professional Conduct Committee are complied with;
- (h) impose restrictions or conditions, or both, which may include requirements for competence assessments and bridging education, or other forms of remediation;
- (i) reprimand the respondent and direct that the reprimand be recorded in the records of the College;
- (j) direct the respondent to pass a particular course of study or satisfy the Professional Conduct Committee or any other committee established under this Act of the respondent's general competence to practise or competence in a particular field of practice;
- (k) direct the respondent to obtain medical treatment;
- (l) direct the respondent to obtain any counselling that the Committee considers appropriate;
- (m) unless the finding is of incompetence or incapacity, impose a fine that does not exceed an aggregate amount of \$50,000 regardless of the number of proven allegations;
- (n) make such other order as the Committee deems sufficient to meet the objects of the College; and
- (o) in its discretion, award costs.

(2) Where the Professional Conduct Committee revokes the registration or licence of a registrant, the Committee shall determine whether the registrant is entitled to apply for reinstatement of the registration or licence.

(3) Where the Professional Conduct Committee determines that a registrant whose registration or licence has been revoked may apply for reinstatement, the Committee shall determine the time when the registrant may apply for reinstatement, which cannot be earlier than two years from the date of the Committee's decision.

(4) The Professional Conduct Committee must issue a written decision, with reasons, at the conclusion of a hearing under this Section and shall direct the Chief Executive Officer to send a copy of the written decision to the respondent, the complainant and such other persons as directed by the Committee and to disclose or publish the decision pursuant to Section 108.

**104 (1)** Where the period of suspension of a registrant has expired, the conditions imposed on the registrant have been satisfied or the restrictions imposed on the registrant have been removed, the Chief Executive Officer shall restore the licence of the registrant in the form it existed before the imposition of the suspension, conditions or restrictions, if the registrant otherwise meets the criteria for the issuing of a licence.

(2) Where the licence has expired for a registrant to whom subsection (1) applies, the registrant shall pay the prescribed fee for renewal of the licence before its re-issue.

(3) Where a registrant's licence has been restored under subsection (1), the Chief Executive Officer shall

- (a) make the appropriate entries in the records of the College;
- (b) where registering bodies in other jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of the suspension, conditions or restrictions; and
- (c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions.

**105 (1)** A party may appeal the findings of the Professional Conduct Committee on a point of law to the Nova Scotia Court of Appeal.

(2) A notice of appeal must be served upon the other party not later than 30 days after service of the final decision of the Professional Conduct Committee under subsection 103(4).

(3) The record on appeal from the findings of the Professional Conduct Committee consists of a copy of the transcript of the proceedings, the decisions of the Committee and the evidence before the Committee certified by the Chief Executive Officer.

(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 with necessary changes to appeals to the Court of Appeal under this Section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal under this Section, the decision of the Professional Conduct Committee takes effect immediately, unless the Court of Appeal grants a stay of the Committee's decision.

**106 (1)** A respondent who does not contest the allegations or who admits to some or all of the allegations set out in a complaint or a notice of hearing may, with the consent of the Chief Executive Officer, ask the Professional Conduct Committee to revoke the respondent's registration or licence, or both.

**(2)** The Professional Conduct Committee may consent to the revocation of the respondent's registration or licence, or both, in accordance with subsection (1), with or without conditions, or may refuse consent.

**(3)** A respondent who consents to the revocation of the respondent's registration or licence, or both, must in all respects be treated as though the registration or licence, or both, were revoked by the Professional Conduct Committee.

**(4)** Notification of a revocation under this Section must be given in accordance with Section 107.

**107 (1)** Except as prohibited by a publication ban, where a licensing sanction has been issued without a hearing, the Chief Executive Officer shall

(a) make appropriate entries on the records of the College and on the licence of the registrant to reflect the licensing sanction;

(b) publish a summary of the decision in accordance with subsection (2)

(i) on the College's website, and

(ii) in any other publication determined by the Committee making the decision;

(c) provide notice of the licensing sanction ordered or agreed upon, and include information requested by another licensing jurisdiction to

(i) registering bodies in other Canadian nursing jurisdictions,

(ii) registering bodies in the original nursing jurisdiction of the registrant, and

(iii) registering bodies in other nursing jurisdictions where the registrant is known to be or to have been registered or is seeking registration;

(d) give the respondent a copy of the decision;

(e) give a copy of the decision, or any part of the decision, as the Committee making the decision directs to the complainant; and

(f) provide

(i) notice of the decision,

(ii) a summary of the decision,

(iii) parts of the decision, or

(iv) a copy of the decision

to any person the Committee making the decision directs.

**(2)** Except for information that must be excluded under subsection (3), or that may be modified under subsection (4), a summary of the decision must be prepared by the Chief Executive Officer and contain

- (a) the registrant's name and registration number;
- (b) the provision of the Act under which the licensing sanction is issued;
- (c) the date of the decision;
- (d) relevant background information;
- (e) the allegations that were upheld by the Complaints Committee or the Professional Conduct Committee or, for a consent revocation, the allegations that were either admitted or not contested by the registrant;
- (f) whether the allegations amounted to professional misconduct, conduct unbecoming the profession, incompetence or incapacity;
- (g) the disposition ordered by the Complaints Committee, the Professional Conduct Committee or agreed upon with the respondent;
- (h) the reasons for the decision; and
- (i) any additional information the Chief Executive Officer considers necessary to meet the objects of the College.

**(3)** Where allegations have been found to constitute incapacity, the specific nature of the incapacity must not be included in a summary of the decision.

**(4)** Where a matter is resolved by a settlement agreement, a summary of the decision may be modified to align with the terms of the settlement agreement.

**108** Except as prohibited by a publication ban, where a licensing sanction has been issued following a hearing, the Chief Executive Officer shall

- (a) comply with the requirements of clauses 107(1)(a) and (c) to (f);
- (b) publish a summary of the decision in any publication determined by the Chief Executive Officer; and
- (c) publish a copy of the full decision on the College website.

## REINSTATEMENT

**109** The Board shall appoint a Reinstatement Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

**110** The Board shall appoint the Chair of the Reinstatement Committee.

**111** A quorum of the Reinstatement Committee consists of three persons from the committee appointed under Section 109, at least one of whom must be a public representative, and the remainder of whom must hold such designations as set out in the by-laws.

**112 (1)** The Reinstatement Committee shall review applications for reinstatement of registration and licence following revocation of the registration or licence of a registrant, and shall perform such other duties as set out in this Act and the regulations.

**(2)** Applications for reinstatement must proceed in accordance with the process set out in the regulations.

**(3)** Where a registrant's registration or licence has been reinstated under this Section, the Reinstatement Committee, in its discretion, shall determine whether publication of the reinstatement is required in the interest of the public.

**113** The Reinstatement Committee and an investigator appointed in accordance with the regulations have all the powers conferred by this Act and the by-laws in the discharge of its functions, including the ability to award costs, as well as the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**114 (1)** In a hearing before the Reinstatement Committee, a party has the right to

- (a) natural justice;
- (b) be represented by legal counsel, a union representative or another representative at the party's expense;
- (c) disclosure of any information to be provided to the Committee; and
- (d) a reasonable opportunity to present a response and make submissions.

**(2)** Evidence is not admissible before the Reinstatement Committee unless, at least 10 days before the hearing, the opposing party has been given

- (a) for written or documentary evidence, an opportunity to examine the evidence;
- (b) for expert evidence, the expert's qualifications and a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and
- (c) the identity of any other witness, and a summary of the witness's anticipated evidence.

**(3)** The Reinstatement Committee may extend beyond 10 days the time required for an opposing party to be provided with evidence under clause 2(b).

**(4)** Notwithstanding subsection (2), the Reinstatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (2) and may make directions it considers necessary to ensure that a party is not prejudiced.

**115** A decision of the Reinstatement Committee is final.



## FITNESS-TO-PRACTISE PROCESS

**116** The Board shall appoint a Fitness to Practise Committee composed of at least one public representative and such other number of registrants and public representatives as the Board determines.

**117 (1)** The Board shall appoint a Chair and a Vice-chair of the Fitness to Practise Committee.

**(2)** The Vice-chair shall act as chair in the absence of the Chair.

**(3)** Where neither the Chair nor the Vice-chair is available for the purpose of subsections 118(1) and (3), the Chair may, for such purpose, appoint a member of the Fitness to Practise Committee as chair of the Committee.

**118 (1)** Upon referral of a matter to the Fitness to Practise Committee, the Chair of the Committee shall appoint a panel of at least three members of the Committee to act as the Fitness to Practise Committee, at least one of whom must be a public representative.

**(2)** The Chair of the Fitness to Practise Committee may sit on the panel and shall act as the chair of the panel in this event.

**(3)** Where the Chair of the Fitness to Practise Committee is not appointed to the panel, the Chair of the Committee shall appoint a chair for the panel.

**119 (1)** Failure of one or more Fitness to Practise Committee members to receive a notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of a meeting.

**(2)** A quorum of the Fitness to Practise Committee consists of three members of the panel, at least one of whom must be a public representative and the remainder of whom must hold such designations as set out in the by-laws.

**(3)** A decision of the Fitness to Practise Committee requires the vote of a majority of the panel of the Committee appointed under subsection 118(1).

**(4)** Where a matter is referred to the Fitness to Practise Committee and the term of office of a person sitting on the Committee expires, that person may remain part of the Committee until the matter is concluded.

**120 (1)** The Fitness to Practise Committee shall perform such functions as set out in this Act and the by-laws.

**(2)** The Fitness to Practise Committee may set its own procedures for meetings.

**121** When performing their functions as set out in this Act, the regulations and the by-laws, the members of the Fitness to Practise Committee have all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

**122 (1)** Subject to subsection (3), the Chief Executive Officer may refer a registrant to the fitness-to-practise process if the registrant agrees and the Chief Executive Officer determines that the registrant is eligible.

**(2)** The Board shall approve eligibility criteria for a referral under subsection (1).

**(3)** No registrant may be referred to the fitness-to-practise process unless

(a) a complaint concerns the registrant's incapacity;

(b) the information disclosed in a regulatory process raises concerns about the registrant's incapacity;

(c) a person raises questions about the possible incapacity of the registrant to the College in the absence of a complaint; or

(d) the registrant self-reports incapacity to the College.

**123 (1)** Where the Chief Executive Officer determines under Section 122 that a registrant is eligible for the fitness-to-practise process, the registrant shall

(a) cease practising to pursue remediation of the incapacity under such terms and conditions as agreed with the Chief Executive Officer; or

(b) continue in or resume practice under such terms and conditions as agreed with the Chief Executive Officer.

**(2)** An agreement reached under clause (1)(b) must be approved by the Fitness to Practise Committee.

**(3)** Where a matter referred to the fitness-to-practise process concerns a registrant who was previously part of a fitness-to-practise process, the Chief Executive Officer and the Fitness to Practise Committee must be provided with all information in the possession of the College related to the previous matter.

**(4)** The Chief Executive Officer may request a meeting with the Fitness to Practise Committee at any time during the fitness-to-practise process with respect to a registrant's progress in the process or to request the registrant's removal from the process.

**(5)** Where expenses are incurred in the fitness-to-practise process involving the remediation of the incapacity or in order for a registrant to continue in or resume practice, the Chief Executive Officer or the Fitness to Practice Committee may require a registrant to pay for such expenses under such terms as the Chief Executive Officer or Fitness to Practice Committee determines.

**124 (1)** A registrant who has advised the Chief Executive Officer that the registrant

(a) has ceased practicing under clause 123(1)(a) and is seeking to return to practice; or

(b) has agreed to terms and conditions for practice under clause 123(1)(b) and seeks to remove or vary any of the terms and conditions,

may request the Chief Executive Officer to convene a meeting with the Fitness to Practise Committee.

- (2) A registrant appearing before the Fitness to Practise Committee has the right to
- (a) be represented by legal counsel, a union representative or another representative at the registrant's own cost;
  - (b) notice of any matters under investigation;
  - (c) a reasonable opportunity to present a response and make submissions in such form as determined by the Committee;
  - (d) such other information as natural justice requires; and
  - (e) such other information as determined by the Chief Executive Officer.

(3) Upon receipt of a request under subsection (1), the Fitness to Practise Committee shall convene a meeting with the registrant and may

- (a) approve the registrant's return to practice, subject to such terms and conditions as the Fitness to Practise Committee deems appropriate and with which the registrant agrees;
- (b) vary the terms and conditions under which the registrant is practising if the registrant agrees to such variation; or
- (c) deny the return to practice or variation request and refer the registrant back to the Chief Executive Officer.

**125 (1)** A registrant may be referred back to the Chief Executive Officer if

- (a) the registrant withdraws consent to participate in the fitness-to-practise process;
- (b) the registrant fails to submit to a capacity examination as directed by the Chief Executive Officer;
- (c) the registrant does not agree with the terms or conditions for practice or for a return to practice sought by the Fitness to Practise Committee;
- (d) the Committee determines that a registrant
  - (i) fails to meet the agreed terms and conditions of practice, or
  - (ii) poses an immediate threat to the health or safety of others;
- (e) the Committee is not satisfied that the registrant is incapacitated; or
- (f) at any time if the Committee considers that it is no longer consistent with the objects of the College for the registrant to participate in the fitness-to-practise process.

(2) Where a registrant is referred back to the Chief Executive Officer under subsection (1) or clause 124(3)(c), the registrant must be removed from the fitness-to-practise process and

(a) where the registrant was involved in a regulatory process at the time of referral to the fitness-to-practise process, the registrant must be referred back to the committee conducting the regulatory process; or

(b) where the matter was referred by the Chief Executive Officer outside of a regulatory process, the Chief Executive Officer shall determine whether a regulatory process should be initiated or whether the matter requires further action under the Act,

and the registrant's file, including reports, assessments and evaluations in the possession of or obtained by the Fitness to Practise Committee, must accompany the referral and may be provided by the Chief Executive Officer to any person or regulatory committee addressing the matter.

**126 (1)** The Fitness to Practise Committee retains jurisdiction over a registrant who is subject to ongoing terms and conditions of practice agreed upon with the Committee until such terms and conditions have been met or the matter has been referred back to the Chief Executive Officer under Section 125.

**(2)** Where a registrant has been referred back to a regulatory committee under clause 125(2)(a), the regulatory committee regains jurisdiction over the matter involving the registrant.

**(3)** Where the Chief Executive Officer initiates a regulatory process under clause 125(2)(b), the committee conducting the regulatory process gains jurisdiction over the matter.

**127** Where an agreement has been reached with a registrant to cease practising or to practise under terms and conditions under Section 123 or 124, the Chief Executive Officer shall

(a) annotate the College's records to reflect the licensing status of the registrant;

(b) notify the registrant's employers, as identified in the records of the College or otherwise known to the College, of the registrant's licensing status; and

(c) notify the licensing authority in any other jurisdiction in which the registrant is licensed, of the registrant's licensing status,

without disclosing the nature of the registrant's incapacity.

#### EDUCATION PROGRAM APPROVAL

**128 (1)** The Board shall appoint an Education Program Approval Committee, composed of such number of registrants and public representatives as determined by the Board, but including at least one public representative.

**(2)** The Board shall appoint the Chair.

**(3)** The term of office of members of the Committee must be determined by the Board.

**(4)** The Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

**(5)** A quorum of the Committee consists of three members, at least one of whom is a public representative.

**129** The Education Program Approval Committee shall

- (a) advise and make recommendations to the Board with respect to
  - (i) establishing standards for education programs offered in the Province to meet in order to become approved education programs,
  - (ii) establishing standards for re-entry programs,
  - (iii) approving or conditionally approving education programs in the Province as approved education programs or re-entry programs for the purpose of this Act, and
  - (iv) denying or withdrawing approval of approved education programs and re-entry programs that do not meet the standards approved by the Board;
- (b) ensure that approved education programs and re-entry programs in the Province are assessed for compliance with Board standards at times approved by Board; and
- (c) perform such other functions as directed by the Board.

#### CONFIDENTIALITY

**130** No individual involved in the administration of this Act, member of the Board or a committee of the Board, or other person who receives or has knowledge of information as a result of a regulatory process under this Act, the regulations or the by-laws, may publish, release or disclose the information and such individual shall maintain confidentiality with respect to such information that comes to that individual's knowledge, except

- (a) as permitted by the *Regulated Health Professions Network Act*;
- (b) as provided by this Act, the regulations or the by-laws;
- (c) to one's own legal counsel;
- (d) in the case of a respondent, to the respondent's legal counsel or union or other representative;
- (e) in the case of a participant in a regulatory process, other than a respondent, to legal counsel for the College or to legal counsel, a union representative or other representative for the respondent in that regulatory process;
- (f) where the information is otherwise publicly available;
- (g) as required by law; or
- (h) with the consent of the person to whom the information relates.

**131 (1)** A disclosure of otherwise confidential information under Section 130 or subsection (2) must be limited to the minimum amount of information necessary to achieve the purpose for which it is disclosed.

(2) Notwithstanding Section 130 or any other Section of this Act, the regulations or the by-laws, where it is consistent with the objects of the College, the Chief Executive Officer may disclose

- (a) to the public
  - (i) information that is otherwise available to the public, and
  - (ii) subject to the terms of a decision ordering licensing sanctions, particulars of a licensing sanction that has been imposed on a registrant or the decision of a Complaints Committee to issue an interim suspension or restriction pending completion of an investigation and any hearing that may follow;
- (b) without a request for disclosure, to an extra-provincial nursing or other regulatory body
  - (i) that a complaint with respect to a registrant has been received, the particulars of the complaint and that the matter is under investigation, and
  - (ii) the decision of a regulatory committee that impacts the fitness or eligibility of a registrant for membership in the other regulatory body;
- (c) to law enforcement authorities, information about possible criminal activity on the part of a registrant;
- (d) specific information to a specific person or agency as will enable the recipient to determine whether action is required to protect the public; and
- (e) to such other persons, such other information as is consistent with the objects of the College and in the public interest.

**132 (1)** A witness in a legal proceeding, whether a party thereto or not, shall not answer any question as to any proceedings of a regulatory process and shall not produce any report, statement, memorandum, recommendation or other document prepared for the purpose of the regulatory process, including any information gathered in the course of an investigation or produced for a regulatory committee.

(2) Subsection (1) does not apply to documents or records that have been made available to the public by the College if permitted by this Act, the regulations or the by-laws.

(3) Unless otherwise determined by a court of competent jurisdiction, a decision issued pursuant to any process conducted under this Act, or any information set out in subsection (1) relevant to such decision, is not admissible in a civil proceeding other than an appeal or a process under this Act.

**133 (1)** Where the information or decision set out under subsections 132(1) and (3) involves a self-assessment tool prepared by a registrant for the continuing-competence program, no person shall disclose or is required to disclose in a proceeding under this Act or the regulations any information or documents relating to the content of a registrant's self-assessment tool without the express consent of the registrant or unless otherwise determined by a court of competent jurisdiction.

(2) The provision by a registrant of a copy of the registrant's self-assessment tool to another person is not, by itself, consent for the purpose of subsection (1).

(3) Subject to subsection (1), a witness in a legal proceeding shall answer any question or produce any document that the witness is otherwise bound by law to answer or produce.

(4) Subsection (1) does not apply to the original medical and hospital records of a client.

## PRACTICE REVIEWS

**134 (1)** The Board shall appoint a Practice Review Committee composed of such number of registrants and public representatives as determined by the Board, but must include at least one public representative.

(2) The Board shall appoint a Chair and a Vice-chair of the Practice Review Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Where neither the Chair nor the Vice-chair is available for the purpose of subsections 135(1) and (3), the Chair may, for such purpose, appoint a member of the Practice Review Committee as chair of the Committee.

**135 (1)** Upon receipt of a referral to the Practice Review Committee, the Chair of the Committee shall appoint a panel of at least three members of the Committee to act as the Practice Review Committee, at least one of whom must be a public representative.

(2) The Chair of the Practice Review Committee may sit on the panel and shall act as the chair of the panel in this event.

(3) Where the Chair of the Practice Review Committee is not appointed to the panel, the Chair of the Committee shall appoint a chair for the panel.

**136 (1)** The Practice Review Committee shall perform such functions as set out in the regulations.

(2) The Practice Review Committee may set its own procedures for meetings.

**137 (1)** Failure of one or more Practice Review Committee members to receive a notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes a member from waiving a notice of meeting.

(2) A quorum of the Practice Review Committee consists of any three members of the panel appointed under subsection 135(1), at least one of whom must be a public representative and the remainder of whom must hold such designations as set out in the by-laws.

(3) Where a matter is referred to the Practice Review Committee and the term of office of a member sitting on the committee expires, that member may remain part of the Practice Review Committee until the matter is concluded.

**(4)** A decision of the Practice Review Committee requires the vote of a majority of the panel of the Committee appointed under subsection 135(1).

**138** When performing their functions as set out in this Act, the regulations and the by-laws, the members of the Practice Review Committee have all the rights, powers and privileges of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

## CUSTODIANSHIP

**139** In Sections 140 to 143,

- (a) “client records” includes all documents, charts, laboratory specimens, X-rays, photographic film or any other form of record relating to the clients of a self-employed registrant;
- (b) “court” means the Supreme Court of Nova Scotia.

**140 (1)** Where adequate provision has not been made for the protection of the client’s interests in the client’s records and a self-employed registrant

- (a) dies, disappears, is imprisoned, leaves the Province or surrenders the registrant’s licence to practise;
- (b) is struck off the register or is the subject of a suspension of licence;
- (c) has had a licensing sanction imposed; or
- (d) neglects the registrant’s practice,

the College may, with or without notice as the court directs, request the court to appoint a custodian who is a physician or another registrant to take possession of the client records.

**(2)** A custodian appointed under subsection (1) 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 health-care providers of the clients concerned, 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.

**141 (1)** In an order made under subsection 140(1), or in a subsequent order made on the application of the College or 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 a sheriff to seize, remove and place client records in the possession of the custodian;
- (c) where there are reasonable grounds to believe that client records may be found in a 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 a premises, or person in possession of a premises, or a bank or other depository of client records to deal with, hold, deliver or dispose of such client records as the court directs;

(e) direct 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 the completion of the custodian's responsibilities under Section 140; and

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

(2) Unless the court otherwise directs, it is sufficient for the custodian to give notice by newspaper advertisement and the College's website to clients, health-care providers, registrants or the general public that the custodian has possession of the client records.

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

(4) The court may, upon the application of the College 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.

(5) Unless otherwise ordered under subsection (3), upon discharge of a custodian under subsection (3) or (4), the College shall take into permanent custody client records and assume the responsibilities of a custodian as provided in subsection 140(2).

(6) The College may destroy records if permitted by the court.

**142** The court may give directions as to service of any notice required or order made under Sections 140 and 141.

**143** A self-employed registrant who is subject to an order made under Section 140 may, after giving notice to the College and to the custodian, apply to the court to vary or set aside the order and to direct the custodian to place all or part of the client records back into the possession of the registrant upon such terms as may be just.

**144** No action lies against the College, Board or any committee, registrant, officer or employee of the College, custodian or any other person for anything done or omitted to be done in good faith under Sections 140 to 143.

**145** Sections 140 to 144 apply to former registrants of the College or former members of the legacy Colleges.

## PROFESSIONAL INCORPORATION

**146** Subject to any regulations made under this Act, nothing in this Act prevents the incorporation of a registrant, but every registrant continues to be personally responsible for compliance with this Act, the regulations, and by-laws notwithstanding incorporation.

**147** A person who carries on the practice of nursing as, through or on behalf of an incorporated entity is liable with respect to acts or omissions done or omitted to be done by that person in the course of that person's practice to the same extent and in the same manner as if such practice were carried on by that person as an individual or a partnership carrying on such practice.

**148** Where a registrant is engaged in the practice of nursing as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between the registrant and the registrant's client.

**149** A shareholder, director, officer or employee of an incorporated entity engaged in the practice of nursing is a compellable witness in any proceedings under this Act.

**150** Where the conduct of a registrant is the subject of a complaint, investigation or inquiry and the registrant was an officer, director, shareholder or employee of an incorporated entity at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised with respect to the registrant or the registrant's records may be exercised with respect to the incorporated entity or its records.

## OFFENCES AND PENALTIES

**151 (1)** Every incorporated entity engaged in the practice of nursing, that contravenes this Act, the regulations or the by-laws is guilty of an offence and is liable to the same penalties as any person who is guilty of an offence under this Act.

**(2)** Sections 152 and 153 apply to all incorporated entities engaged in the practice of nursing.

**152 (1)** Every person who

(a) knowingly furnishes false information in an application under this Act or in a statement required to be furnished under this Act, the regulations or the by-laws;

(b) engages in practice in the Province without complying with this Act, the regulations or the by-laws;

(c) engages in practice in violation of any condition or limitation contained on the person's licence; or

(d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both fine and imprisonment.

**(2)** The *Summary Proceedings Act* applies in addition to any regulatory process or penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the College belong to the College.

(4) An information to be laid under this Act or the *Summary Proceedings Act* may be laid by the Chief Executive Officer or a person authorized by the Chief Executive Officer.

**153 (1)** In a prosecution for an offence under this Act or the regulations, the onus of proof that a person accused of an offence has the right to practise, or that a person comes within an exemption provided by this Act, is on the accused person.

(2) For the purpose of this Act or the regulations, proof of the performance by a non-registrant of one act of practice is sufficient to establish that a person has engaged in practice.

**154** Where an offence under this Act or the regulations is committed or continues for more than one day, by a person or an employer, the offender is guilty of a separate offence for each day that the violation is committed or continues.

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

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction under 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 appropriate in a proceeding under this Section.

## GENERAL

**156 (1)** Every person, other than a client, who employs a person in practice and every agency or registry that procures employment for a person in practice shall

(a) ensure that the person, at the time of employment and each year employed thereafter, holds a current licence; and

(b) where the person's employment is terminated or the person resigns because of allegations of professional misconduct, conduct unbecoming the profession, incompetence or incapacity, report the matter to the Chief Executive Officer forthwith and provide a copy of the report to the person whose employment is terminated.

(2) Every person, other than a client, who employs an incorporated entity engaged in practice and every agency or registry that procures employment for an incorporated entity engaged in practice shall comply with the provisions of subsection (1) with respect to each person who is in the employ of the incorporated entity.

**157 (1)** Where a registrant does not comply with a decision of a committee within the time specified in the decision, and the period for an appeal has expired, the Chief Executive Officer may file a certified copy of the decision with the Supreme Court of Nova Scotia and enforce the decision as if it were an order of the Court.

**(2)** Any fine or costs ordered to be paid under this Act or the regulations is a debt due to the College and recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or costs.

**(3)** Where a registrant or other person does not comply with a power exercised under the *Public Inquiries Act*, the Chief Executive Officer may apply to the Supreme Court of Nova Scotia for enforcement of the power and the Court may award costs arising from the application.

**158 (1)** No action lies against the College, Board, members of the Board, committees or subcommittees of the College or Board, or the members of the committees or subcommittees, or the Chief Executive Officer, officers, agents, investigators, contractors or employees of the College or anyone acting on the instruction of any of them for

(a) any act or failure to act, or any proceeding initiated or taken in good faith under this Act, the regulations or by-laws, or in carrying out the duties or obligations under this Act;

(b) a decision, order or resolution made or enforced in good faith under this Act; or

(c) a disclosure made in good faith under this Act.

**(2)** No registrant of the College or member of the Board, committees or subcommittees of the College or Board, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College, unless the person expressly agrees to be liable.

**159** No action lies against a person for making a complaint under this Act unless the complaint is not made in good faith.

**160 (1)** No action for damages or other relief lies against a legacy College, its Board, its Council, the members of its Board or Council, its committees or subcommittees or the members of its committees or subcommittees, or the Executive Director, officers, agents, investigators, contractors or employees of the legacy Colleges or anyone acting on the instruction of any of them

(a) for any act or failure to act, or any proceeding initiated or taken in good faith under a former Act, its regulations or by-laws, or in carrying out the duties or obligations under the former Act;

(b) for a decision, order or resolution made or enforced in good faith under a former Act; or

(c) for a disclosure made in good faith under a former Act.

**(2)** No action lies against a person for making a complaint under a former Act unless the complaint was not made in good faith.

**(3)** No member of the legacy Colleges, the Board, Council, committees or subcommittees of the legacy Colleges or Board, Council, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the legacy College, unless the person expressly agrees to be liable.

**161** Where a quorum of members of a committee is not available for a meeting or hearing, the Board may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum.

**162 (1)** Unless otherwise provided in this Act or directed by a regulatory committee, a notice required to be given under this Act, the regulations or the by-laws may be delivered electronically, and a meeting required to be held under this Act, may be held by electronic means.

**(2)** Where a notice is delivered electronically, delivery is deemed effective on the date the notice was sent to the last electronic address the registrant filed with College.

**(3)** Where a notice is sent by registered mail, delivery is deemed effective on the third day after the day of mailing.

**163 (1)** For the purpose of the execution of their duties under this Act, the Chief Executive Officer or any committee of the College, may retain such legal or other assistance as the Chief Executive Officer or the committee thinks necessary or proper.

**(2)** Where authorized by the Act or the regulations, the costs of legal or other assistance retained under subsection (1) may be included, in whole or in part, as costs ordered by the Chief Executive Officer or the committee.

**164** The Registration and Licensing Review Committee, the Complaints Committee, the Professional Conduct Committee, the Reinstatement Committee, and such other committees as may be set out in the regulations, may award costs against a registrant or the College where authorized by this Act or the regulations.

**165** The Chief Executive Officer may suspend the licence of a registrant without notice or investigation upon the registrant's contravention of a regulation or by-law that requires the registrant to pay a fee, file a document or do any other act by a specified or ascertainable date, and may reinstate the licence so suspended upon payment of such fine as set out in the by-laws.

**166** Where the Chief Executive Officer, the Registration and Licensing Committee, the Registration and Licensing Review Committee, the Complaints Committee or the Professional Conduct Committee determines a person who subsequently becomes a registrant has engaged in practice without holding a current licence, the Chief Executive Officer or the relevant committee may impose a fine in such amount as set out in the by-laws.

**167** A statement certified under the hand of the Chief Executive Officer respecting the registration and licensing status of a person is admissible in evidence as *prima facie* proof of that person's registration and licensing status.

**168** The Chief Executive Officer or committee requiring a competence assessment may require one or more of

- (a) a review of information provided by an applicant for registration or a licence;
- (b) a self-assessment;
- (c) a written or oral test or examination;
- (d) a case study;
- (e) an audit;
- (f) a practice review;
- (g) a live demonstration of competencies;
- (h) an interview of the applicant;
- (i) a practice observation;
- (j) a reflective practice; and
- (k) such other method of assessment the Chief Executive Officer or committee determines to be necessary.

**169** With respect to any proceeding conducted or decision issued by a regulatory committee, the committee may, on its own initiative or at the request of a party, impose a publication ban on such portions of its proceeding or decision that is in the public interest.

**170** Nothing in this Act prohibits

- (a) the private care of a person without remuneration;
- (b) the furnishing of first aid or emergency assistance if such aid or assistance is given without hire, gain or hope of reward;
- (c) employees from engaging in a lawful strike;
- (d) the practice of a profession or performance of a function authorized under an enactment of the Province by a person authorized under that enactment, if the person does not describe the person's practice as "nursing" or use a word of similar meaning, or does not use any of the designations or titles protected under this Act or the regulations;
- (e) the practice by registrants of acts approved for practice under the *Medical Act*;
- (f) the carrying out of delegated tasks constituting part of the practice of nursing by a person under the supervision of a registrant;
- (g) provision of services for compensation, other than the provision of nursing services, at a place that is subject to or providing a service under the *Children and Family Services Act*, the *Day Care Act*, the *Homemakers' Services Act*, the *Homes for Special Care Act* or the *Social Assistance Act*; or
- (h) the provision of services as may be prescribed by the regulations.

## TRANSITIONAL

**171** An action, appeal, application or other proceeding being carried on or power or remedy being exercised by or with respect to a legacy College may be continued in the name of the Nova Scotia College of Nursing.

**172 (1)** A matter subject to a regulatory process under a former Act must continue to be proceeded with in accordance with this Act as nearly as circumstances permit.

**(2)** Notwithstanding subsection (1), where a hearing has commenced under a former Act, the hearing must proceed in accordance with the former Act, unless the parties agree the matter can be addressed under this Act.

**(3)** Where a completed application for registration or licensing has been received by a legacy College prior to the coming into force of this Act but no decision has been rendered on the application, the decision must be made in accordance with the process in place under this Act.

**(4)** Where an application for registration or licensing has been commenced but not completed at the time of the coming into force of this Act, the application must be processed in accordance with this Act.

**(5)** An agreement, informal resolution, undertaking, decision or order made in a regulatory process under a former Act remains in effect under this Act under the same terms and conditions.

**173 (1)** Persons serving on committees of the legacy Colleges continue as members of those committees or their counterparts under this Act until committee appointments are made under this Act.

**(2)** Notwithstanding subsection (1), the chair and vice-chair of a regulatory committee shall be appointed by the Board in such manner as the Board of the College of Licensed Practical Nurses of Nova Scotia and the Council of the College of Registered Nurses of Nova Scotia determine.

**174 (1)** Until such time as regulations made under this Act are effective, the scope of practice for the licensed practical nurse and registered nurse designations includes the scopes of practice for such nursing designations set out in the former Acts and all modifications to such scopes of practice approved under the *Regulated Health Professions Network Act*.

**(2)** Until such time as regulations made under this Act are effective, the scope of practice for a nurse practitioner means the application of advanced nursing knowledge, skills and judgement in addition to the scope of practice for the registered nurse designation under this Act, including all modifications to such scope of practice as approved under the *Regulated Health Professions Network Act*, in which a nurse practitioner may, in accordance with standards for nurse practitioners, do one or more of the following:

- (a)** make a diagnosis identifying a disease, disorder or condition;
- (b)** communicate the diagnosis to the client and other health care professionals as appropriate;

- (c) perform procedures;
- (d) initiate, order or prescribe consultations, referrals and other acts;
- (e) order and interpret screening and diagnostic tests;
- (f) recommend, prescribe or reorder drugs, blood, blood products and related paraphernalia,

including research, education, consultation, management, administration, regulation, policy or system development relevant to clauses (a) to (f).

**175 (1)** All standards for education programs and all practical nursing education programs, nursing education programs, nurse practitioner programs, licensed practical nurse re-entry programs and registered nurse re-entry programs approved by the legacy Colleges immediately before the coming into force of this Act are deemed to be approved by the Board under this Act until their approval is withdrawn or expires.

**(2)** Until such time as regulations made under this Act respecting the minimum education requirements for approved education programs for each nursing designation are effective, the minimum education requirements for approved education programs for each nursing designation are those approved under the processes in place under the former Acts.

**(3)** An examination required for registration or licensing purposes under a former Act or by-laws of a legacy College is an approved examination for the same purpose under this Act, unless provided otherwise in the by-laws.

**(4)** The requirements respecting the number of times a registrant may write an examination under subsection 175(3) as set out in the by-laws of a legacy College remain in effect unless provided otherwise in the by-laws.

**176 (1)** A continuing-competence program approved under a former Act remains approved until such time as amended by the by-laws.

**(2)** The processes for verification of compliance with a continuing-competence program under a former Act remain in place until such time as amended by the by-laws.

**(3)** All requirements for currency of practice in place under the former Acts and regulations remain in effect for registration and licensing purposes until such time as amended by the by-laws.

**177 (1)** Every person who, at the coming into force of this Act is registered under either of the former Acts, shall be deemed to be registered under this Act with the same privileges, and subject to the same conditions or restrictions as contained in the register under the former Act.

**(2)** Every person who, at the coming into force of this Act holds a licence issued under either of the former Acts authorizing that person to practise under the former Act, is deemed to hold a licence under this Act with the same privileges, and subject to the same conditions or restrictions, under the licence issued under the former Act.



(3) The registration or licence deemed to be held by a person under subsection (1) or (2) at the coming into force of this Act remains in effect until the earlier of the expiration of the licence issued under the former Act and the issuing of a new licence under this Act.

- (4) Until such time as regulations made under this Act are effective,
- (a) the authority and processes of a reinstatement committee; and
  - (b) the procedure for processing settlement agreements,

under a former Act or its regulations remain in effect for registrants.

**178** The codes of ethics, standards of practice and entry-level competencies approved by each legacy College under the former Acts remain in place until such time as a change is made under this Act.

#### CONSEQUENTIAL AMENDMENTS

**179** Subclause 3(b)(iv) of Chapter 4 of the Acts of 2017, the *Adult Capacity and Decision-making Act*, is amended by striking out “*Registered Nurses*” in the first line and substituting “*Nursing*”.

**180** Clause 5(1)(b) of Chapter 39 of the Acts of 2012, the *Cosmetology Act*, is amended by striking out “*Registered Nurses Act or the Licensed Practical Nurses*” in the second line and substituting “*Nursing*”.

**181** Schedule A to Chapter 38 of the Acts of 2008, the *Fair Registration Practices Act*, as amended by Chapter 52 of the Acts of 2015 and N.S. Reg. 50/2015, is further amended by

- (a) striking out “College of Licenses Practical Nurses of Nova Scotia” in the seventh line;
- (b) striking out “College of Registered Nurses of Nova Scotia” in the tenth line; and
- (c) adding “Nova Scotia College of Nursing” immediately after “Nova Scotia College of Medical Laboratory Technologists” in the twenty-second line.

**182** The former Acts are repealed.

**183** Subsection 2(1) of Chapter 32 of the Acts of 2014, the *Health Authorities Act*, as amended by Chapter 1 of the Acts of 2015, is further amended by

- (a) striking out “*Licensed Practical Nurses*” in the second line of clause (u) and substituting “*Nursing*”; and
- (b) striking out “*Registered Nurses*” in the first and second lines of clause (zg) and substituting “*Nursing*”.

**184** (1) Subsection 31(1) of Chapter 4 of the Acts of 2004, the *Health Protection Act*, is amended by striking out “*Registered Nurses*” in the first and second lines and substituting “*Nursing*”.

(2) Subsection 31(5) of Chapter 4 is amended by striking out “*Registered Nurses*” in the first and second lines and substituting “*Nursing*”.

185 Clause 4(1)(b) of Chapter 18 of the Acts of 2006, the *Midwifery Act*, is amended by striking out “College of Registered Nurses of Nova Scotia” in the first and second lines and substituting “Nova Scotia College of Nursing”.

186 Clause 7(1)(b) of Chapter 18 is amended by striking out “College of Registered Nurses of Nova Scotia” in the third and fourth lines and substituting “Nova Scotia College of Nursing”.

187 The Schedule to Chapter 48 of the Acts of 2012, the *Regulated Health Professions Network Act*, as amended by Chapter 52 of the Acts of 2015, is further amended by

- (a) striking out “College of Licensed Practical Nurses of Nova Scotia” in the second line;
- (b) striking out “College of Registered Nurses of Nova Scotia” in the fifth line; and
- (c) adding “Nova Scotia College of Nursing” immediately after “Nova Scotia College of Medical Laboratory Technologists” in the fourteenth line.

188 Clause 2(oa) of Chapter 494 of the Revised Statutes, 1989, the *Vital Statistics Act*, as enacted by Chapter 48 of the Acts of 2011, is amended by striking out “*Registered Nurses*” in the second line and substituting “*Nursing*”.

189 This Act, except subsections 3(1) and (2) and Sections 6 and 8, comes into force on such day as the Governor in Council orders and declares by proclamation.

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