

**Licensed Practical Nurses Regulations
made under subsection 9(2) of the
Licensed Practical Nurses Act
S.N.S. 2006, c. 17
O.I.C. 2009-193 (April 14, 2009, effective May 1, 2009), N.S. Reg. 197/2009**

Part 1: General

Citation

1 These regulations may be cited as the *Licensed Practical Nurses Regulations*.

Definitions for Act and regulations

2 (1) In these regulations,

- (a) “Act” means the *Licensed Practical Nurses Act*;
- (b) “caution” means a determination by the Complaints Committee that a member has breached the standards of professional ethics or practice expected of members in circumstances that do not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, and a caution is not considered to be a licensing sanction;
- (c) “competence assessment” means a process approved by the Executive Director-Registrar for assessing competencies that uses the methods and tools described in Section 9;
- (d) “competencies” means the specific knowledge, skills and judgment required for a licensed practical nurse to be considered competent in a designated role and practice setting;
- (e) “competent” means the ability to integrate and apply the knowledge, skills and judgment required to practise safely and ethically in a designated role and practice setting;
- (f) “counsel” means a determination by the Complaints Committee that a member could benefit from professional guidance from the College about the subject matter of the complaint, but the member’s conduct does not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, and a counsel is not considered to be a licensing sanction;
- (g) “licensing year” means a 12-month period determined by the Board;
- (h) “practical nursing re-entry program” means a program approved by the Board that tests licensed practical nursing knowledge and provides for a period of preceptored clinical practice;
- (i) “remedial agreement” means an agreement approved by the Fitness to Practise Committee setting out the terms and conditions to be met by a member to address issues of incapacity.

- (2) In the Act and these regulations,
 - (a) “practice setting” includes acute-care settings, community-based settings and non-acute-care settings;
 - (b) “witness” is further defined to include the College and its representatives.
- (3) For the purposes of Section 37 of the Act only, “Complaints Committee” is further defined to include an investigator.

Practical-Nursing Education Programs

Admission standards for practical-nursing education programs

- 3 (1) A practical-nursing education program in the Province must not admit a person into the program unless the person meets all of the following criteria and qualifications:
- (a) the person is in good health and immunized in accordance with the Department of Health’s immunization programs;
 - (b) the person meets 1 of the following educational requirements:
 - (i) they have earned a certificate of education, issued under the authorization of a school board for completion of Grade XII, and have a transcript showing credits at the Grade XII level prescribed or approved by the Department of Education in
 - (A) English,
 - (B) mathematics,
 - (C) any 2 of the following or any 2 sciences approved by the Board:
 - (I) chemistry,
 - (II) biology,
 - (III) physics,
 - (ii) they have attained the equivalent of the credits specified in subclause (i), as determined by the Department of Education.

Evaluation of practical-nursing education programs

- 4 (1) A practical-nursing education program that is approved by the Board for the first time must be evaluated no later than 3 years after the initial approval.
- (2) After being evaluated under subsection (1), a practical-nursing education program must be re-evaluated once every 5 years in accordance with standards set by the Board.

- (3) A practical-nursing education program in existence on the date these regulations come into force must be re-evaluated once every 5 years in accordance with standards set by the Board.

Board

Composition of Board and terms of office

- 5 (1) The Board must be composed of all of the following persons:
 - (a) 4 public representatives appointed by the Governor in Council;
 - (b) 6 licensed practical nurses elected in accordance with the bylaws;
 - (c) 1 registered nurse appointed by the College of Registered Nurses of Nova Scotia.
- (2) Licensed practical nurses elected to the Board under clause (1)(b) must be elected to office for a 2-year term.
- (3) Public representatives appointed to the Board under clause (1)(a) and the registered nurse appointed to the Board under clause (1)(c) must be appointed for a 3-year term.
- (4) A Board member may be re-elected or reappointed to the Board for 1 additional consecutive term.
- (5) A Board member who has been a member for the maximum number of consecutive terms may be re-elected or reappointed to the Board no sooner than 2 years after the end of their last term.

Vacancies on Board

- 6 (1) A vacancy on the Board for a licensed practical nurse may be filled by a member selected by the Board from the same electoral district as the outgoing Board member for the remainder of the outgoing member's term.
- (2) A vacancy on the Board for a public representative must be filled by the Governor in Council for the term set out in subsection 5(3).
- (3) A vacancy on the Board for a registered nurse must be filled by the College of Registered Nurses of Nova Scotia for the term set out in subsection 5(3).

Part 2: Registration, Licensing and Membership

Register and Rosters

Information on Register

- 7 In addition to the name of the qualified person, as required by subsection 10(1) of the Act, the Register must contain all of the following information for each member:
 - (a) a unique registration number;

- (b) the name and location of the school of practical nursing the member graduated from;
- (c) the year the member graduated from the school of practical nursing;
- (d) the date of entry in the Register.

Categories of licences

8 (1) The following are the categories of licences under the Act:

- (a) active-practising;
 - (b) active-practising with conditions or restrictions;
 - (c) temporary;
 - (d) graduate-practising.
- (2)** The roster for each category of licence must be made available to the public.

Registration

Competence assessment

- 9 (1)** The methods used in a competence assessment may include, but are not limited to, interviewing, verification of documents, observation, reflective practice, self-assessments or testing.
- (2)** The tools used in a competence assessment may include, but are not limited to, chart audits, self-assessments, written tests or live demonstrations of competencies.

Registration qualifications for graduates of practical-nursing education programs in Province

- 10 (1)** The following are the qualifications required for registration of a graduate of a practical-nursing education program in the Province:
- (a) graduation from a practical-nursing education program in the Province;
 - (b) successful completion of the registration examinations approved by the Board;
 - (c) payment of the applicable registration fee prescribed by the Board;
 - (d) demonstrated proficiency in the English language in the manner determined by the Executive Director-Registrar;
 - (e) meeting the criteria for entry in the active-practising roster in Section 12, or the active-practising with conditions or restrictions roster in Section 14.

- (2) If the Executive Director-Registrar is satisfied that an applicant meets all of the criteria required by subsection (1), the applicant's name must be entered in the register.

Registration qualifications for graduates of programs outside Province

- 11 (1)** The following are the qualifications required for registration of a graduate of a program outside the Province:
- (a) graduation from a program that qualifies the applicant to be a licensed practical nurse or equivalent in the jurisdiction of the program and either
 - (i) the Executive Director-Registrar determines that the program, with or without any additional education the Executive-Director Registrar may require, is substantially equivalent to a practical-nursing education program, or
 - (ii) the applicant satisfactorily completes a competence assessment;
 - (b) current or previous registration in the jurisdiction where the applicant completed the program referred to in clause (a);
 - (c) if the applicant is currently licensed in any other jurisdictions, the applicant holds an active-practising licence or its equivalent in those jurisdictions;
 - (d) if the applicant was previously licensed in any other jurisdiction, the applicant held an active-practising licence or its equivalent in the jurisdiction where the applicant last held a licence;
 - (e) demonstrated proficiency in the English language in the manner determined by the Executive Director-Registrar;
 - (f) meeting the qualifications in subclauses 10(1)(b) to (e);
- (2)** If the Executive Director-Registrar is satisfied that an applicant meets all of the criteria required by subsection (1), the applicant's name must be entered in the register.

Active-Practising Members

Criteria for entry in active-practising roster

- 12** The Executive Director-Registrar must record the name of a member in the active-practising roster who meets all of the following criteria:
- (a) the member has paid the applicable licence fee prescribed by the Board;
 - (b) the member is not currently subject to any disciplinary finding that would prohibit the practice of practical nursing;
 - (c) the member is not currently under investigation by any registration or licensing authority;
 - (d) the member has provided any information the Executive Director-Registrar requires to establish that the applicant has the capacity, competence, capability and character to safely and ethically practise practical nursing;

- (e) the member has provided any information the Executive Director-Registrar requires to establish that Section 42 of the Act does not apply to the applicant;
- (f) except as provided in Section 16, the member has completed the requirements of a continuing competence program;
- (g) the member meets 1 of the following:
 - (i) the member has graduated from the practical-nursing education program or equivalent program required by Section 10 or 11 in the 5 years immediately before their application for entry in the active-practising roster,
 - (ii) the member has completed at least 1000 hours in the practice of practical nursing in the 5 years immediately before their application for entry in the active-practising roster,
 - (iii) the member has completed at least 500 hours in the practice of practical nursing in the year immediately before their application for entry in the active-practising roster,
 - (iv) as determined by the Executive Director-Registrar, the member has successfully completed 1 of the following in the 5 years immediately before their application for entry in the active-practising roster:
 - (A) a practical nursing re-entry program,
 - (B) a competence assessment,
 - (C) a program approved by the Board,
 - (v) the member is enrolled in and attending a practical nursing program approved by the Executive Director-Registrar, and has met all other criteria for entry in the active-practising roster at the time they enrolled in the program;
- (h) the member's ability to practise practical nursing is not subject to any conditions or restrictions.

Entitlements of members in active-practising roster

13 A member whose name is in the active-practising roster is entitled to all of the following:

- (a) use the title "Licensed Practical Nurse", or "Practical Nurse" or the designation "L.P.N.", "LPN", "P.N.", or "PN";
- (b) practise practical nursing in accordance with the Act;
- (c) be covered under any group professional liability plan to which the College belongs;

- (d) upon election to the Board, hold office;
- (e) be eligible to serve as an appointed member on any committee of the College;
- (f) be eligible to act as an elected or appointed voting delegate to the annual or special meeting of the College;
- (g) receive official College publications.

Criteria for entry in active-practising with conditions or restrictions roster

14 The Executive Director-Registrar must record the name of a member in the active-practising with conditions or restrictions roster who meets all of the criteria for entry in the active-practising roster in Section 12, other than the criterion in clause (h), and has conditions or restrictions placed on their licence as a result of any of the following:

- (a) the conditions or limitations are continued from the member's previous licence under subsection 11(4) of the Act;
- (b) the conditions or restrictions are placed on the member's licence by the Executive Director-Registrar under Section 12 of the Act;
- (c) the conditions or restrictions are placed on the member's licence as a result of a decision of any of the following committees or an equivalent committee from another jurisdiction:
 - (i) the Complaints Committee,
 - (ii) the Fitness to Practise Committee,
 - (iii) the Professional Conduct Committee,
 - (iv) the Re-instatement Committee,
 - (v) the Registration Appeal Committee,
 - (vi) any committee of the College authorized to impose conditions or restrictions on an active-practising licence.

Entitlements of members in active-practising with conditions or restrictions roster

15 A member in the active-practising with conditions or restrictions roster is entitled to all of the privileges listed in Section 13, subject to the particular conditions and restrictions that are placed on the member's licence.

Active-practising licences issued without completion of continuing competence program

16 (1) An active-practising licence issued under subsection 12(2) of the Act to a person who has not yet completed the continuing competence program required by clause 12(f) is limited to a maximum of 3 months and expires on the earliest of all of the following dates:

(a) 3 months after the licence's effective date;

- (b) the last day of the licensing year the licence was issued for;
 - (c) the date the applicant completes the requirements of the continuing competence program and is issued a new licence for the remainder of the licensing year.
- (2) A licence issued under subsection 12(2) of the Act must not be issued to an applicant more than once during any licensing year.
 - (3) The Executive Director-Registrar must keep a record of all licences issued under subsection 12(2) of the Act.

Term and renewal of active-practising licence

- 17 (1)** Unless it otherwise expires, or is suspended, revoked or replaced with a licence with restrictions or conditions, an active-practising licence or an active-practising licence with conditions or restrictions remains in effect until the end of the licensing year in which it is issued.
- (2) The Executive Director-Registrar must renew an active-practising licence or an active-practising licence with conditions or restrictions if the licence holder does all of the following:
- (a) applies for renewal and pays the applicable renewal fee prescribed by the Board;
 - (b) meets all criteria for entry in the applicable roster in Section 12 or 14, except any requirement to pay fees for initial entry in the roster.

Member removed from roster if licence not renewed

- 18** The Executive Director-Registrar must remove the name of a member who does not renew their licence in accordance with subsection 17(2) from the applicable roster, effective the day after their licence expires, and the member remains non-active until their name is restored under subsection 21(2) of the Act.

Members in Temporary Rosters

Criteria for entry in temporary practising roster

- 19** The Executive Director-Registrar must record in the temporary practising roster the name of a person who has been issued a temporary licence under Section 13 of the Act.

Entitlements of members in temporary practising roster

- 20** A member in a temporary practising roster is entitled to all of the following:
- (a) practise practical nursing, subject to any limitations imposed on the licence;
 - (b) use the title “Licensed Practical Nurse” or “Practical Nurse”, or the designation “L.P.N.”, “LPN”, “P.N.”, or “PN”.

Expiry of temporary licences

21 A temporary licence issued under Section 13 of the Act expires on the earliest of all of the following dates:

- (a) the date the College receives notice that the licence holder has failed the applicable registration examinations;
- (b) the date that an active-practising licence is issued to the licence holder;
- (c) the expiry date of the temporary licence;
- (d) the date the temporary licence is suspended or revoked under the professional conduct process.

Graduate Practising Members

Criteria for entry in the graduate practising licence roster

22 The Executive Director-Registrar must record the name of a person in the graduate practising roster and issue a graduate practising licence to a person who has not yet taken the registration examination, but who meets all of the following criteria:

- (a) the person has paid the applicable fee prescribed by the Board;
- (b) the person has graduated from a practical-nursing education program or equivalent program in accordance with Sections 10 and 11 in the 6 months immediately before their application for entry in the graduate practising roster;
- (c) the person has applied to take the registration examination and paid the applicable examination fee prescribed by the Board.

Entitlements of members in graduate practising roster

23 In addition to the entitlements in subsection 26(3) of the Act, a member in the graduate practising roster is entitled to be covered under any group professional liability plan to which the College belongs.

Term of graduate practising licence

24 A graduate practising licence issued under Section 22 is limited to a maximum of 3 months and expires on the earliest of the following dates:

- (a) 3 months from the date the graduate practising licence is issued;
- (b) the date the College receives notice that the licence holder has failed their registration examination;
- (c) the date an active-practising licence is issued to the licence holder.

Restrictions, Conditions and Waivers

Restrictions or conditions on previous licence

- 25** Restrictions or conditions imposed on a member's licence that have not expired remain in effect on any new licence issued to the member.

Waiver by Executive Director-Registrar of criteria for registration or licensing

- 26** The Executive Director-Registrar may waive any of the criteria for registration or licensing required by these regulations for either of the following reasons:
- (a) it is required by law;
 - (b) it is consistent with the objects and purpose of the College and the Executive Director-Registrar considers it necessary.

Part 3: Records and Verification of Records

Members' records of hours of work

- 27 (1)** A member must keep a record of the hours that the member worked in the practice of practical nursing that covers at least the immediately previous 5 years.
- (2)** The College may at any time conduct an audit of records kept under subsection (1) to ensure the validity of data that is recorded on applications to the College respecting hours worked in the practice of practical nursing.

Verification of continuing competence requirements

- 28 (1)** On a random basis or another basis determined by the Board, the College may conduct a verification of a member's self-assessment tool to ensure the validity of data that is recorded on applications to the College respecting completion of the continuing competence program.
- (2)** Information disclosed to the College in the course of conducting a verification under subsection (1) is subject to the non-disclosure provisions of Section 62 of the Act.
- (3)** If the results of a verification conducted under subsection (1) reveal that a member has misrepresented information to the College respecting compliance with the continuing competence program, the person who conducted the verification may initiate a complaint against the member in accordance with the Act and these regulations.
- (4)** If a verification conducted under subsection (1) reveals that a member has not completed the requirements of the continuing competence program, the person conducting the verification may recommend that the Executive Director-Registrar issue an active-practising licence under subsection 12(2) of the Act to allow the member time to complete the requirements of the continuing competence program.

Part 4: Professional Conduct

Initiating and Investigating Complaint

Complaints against members

- 29 (1)** A complaint initiated by a body corporate, association or person other than the Executive Director-Registrar must be in writing and sent to the Executive Director-Registrar.
- (2)** Receipt of a letter of termination stating that a member's employment as a licensed practical nurse has been terminated because of professional misconduct, conduct unbecoming, incompetence or incapacity is deemed to constitute initiation of a complaint under subsection 36(1) of the Act.

Referral of complaint by Executive Director-Registrar

- 30** On receiving a complaint, the Executive Director-Registrar must do 1 of the following:
- (a)** refer the matter to the Complaints Committee and send a copy of the complaint to the respondent;
 - (b)** refer the matter to the Fitness to Practise Committee in accordance with subsection 39(1) of the Act, and send a copy of the complaint to the respondent;
 - (c)** informally resolve the complaint in the interests of the respondent, the complainant, the public and the College;
 - (d)** appoint an investigator to investigate the matter and send a copy of the complaint to the respondent and the investigator.

Preliminary investigation

- 31 (1)** When investigating a complaint under clause 30(d), an investigator may do 1 or more of the following:
- (a)** request additional documents and written or oral explanations from the complainant, the respondent or third parties;
 - (b)** request an interview with the complainant, the respondent or third parties.
- (2)** An investigator may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute any of the following:
- (a)** professional misconduct;
 - (b)** conduct unbecoming;
 - (c)** incompetence;
 - (d)** incapacity.

- (3) A respondent may submit medical information and any other information relevant to the complaint to an investigator.
- (4) When an investigation is finished, the investigator must prepare a report of the investigation and send a copy to the Complaints Committee.

Fines imposed for practising without licence

- 32** (1) If the Executive Director-Registrar is satisfied that an investigation establishes that a member has engaged in the practice of practical nursing without a valid licence, the Executive Director-Registrar may fine the member an amount approved by the Board.
- (2) If a member fails to pay a fine imposed under subsection (1), the Executive Director-Registrar must immediately refer the matter to the Complaints Committee.
 - (3) On receiving a referral under subsection (2), the Complaints Committee may direct the Executive Director-Registrar to suspend the member's licence or suspend the ability of the member to obtain a licence until the fine is paid, together with any reinstatement fee ordered by the Complaints Committee.
 - (4) A fine imposed on a member under subsection (1) is not a licensing sanction against the member and must not be reported on a certificate of standing sent to other practical nursing jurisdictions.
 - (5) The Executive Director-Registrar may take such steps, at the expense of a member who has been suspended for non-payment of a fine under this Section, to bring the suspension to the attention of the public and other affected individuals the Executive Director-Registrar considers necessary.

Referring complaint to Complaints Committee during investigation

- 33** The Executive Director-Registrar 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 the Act and these regulations.

Additional information to Complaints Committee

- 34** (1) At any time, the Complaints Committee may direct an investigator to conduct any investigation the Complaints Committee considers necessary.
- (2) At any time before or during a meeting held under ~~subsection~~ [clause] 35(1)(b), the Complaints Committee may receive information in addition to the report of the investigation if the information is relevant to the matters before it.
 - (3) If the Complaints Committee receives additional information under subsection (2), the respondent must be given an opportunity to respond to the information.

Complaints Committee Disposition of Complaint

Powers of Complaints Committee and disposition of complaint

- 35 (1)** When a matter is referred to a Complaints Committee, it must do 1 of the following:
- (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 Complaints Committee determines that any of the following apply:
 - (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 complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel or a caution, or both;
 - (b) give the complainant, the respondent, and any other person the Complaints Committee considers appropriate a reasonable opportunity to appear before the Complaints Committee and to submit representations, explanations and documentation, including medical information and other information relevant to the complaint.
- (2)** After the Complaints Committee has given the parties the opportunity to appear before the Committee under clause (1)(b), the Complaints Committee may require the respondent to do 1 or more of the following:
- (a) submit to physical or mental examinations by a qualified person or persons designated by the Complaints Committee, and authorize the reports from the examinations to be given to the Complaints Committee;
 - (b) submit to a review of their practice by a qualified person or persons designated by the Complaints Committee, and authorize a copy of the review to be given to the Complaints Committee;
 - (c) complete a competence assessment or other assessment or examination the Complaints Committee directs to determine whether the respondent is competent to practise practical nursing, and authorize the assessment or examination report to be given to the Complaints Committee;
 - (d) produce any records or documents kept about the respondent's practice.
- (3)** After the Complaints Committee has given the parties the opportunity to appear before the Committee under clause (1)(b), the Committee must do 1 or more of the

following:

- (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;
 - (b) counsel the respondent;
 - (c) caution the respondent;
 - (d) 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 Complaints Committee considers appropriate;
 - (e) with the respondent's consent, impose conditions or restrictions, or both, on the respondent's licence;
 - (f) if a determination is made that the matter or matters warrant a hearing, refer the matter or matters to the Professional Conduct Committee;
 - (g) informally resolve the complaint, including authorizing the respondent's resignation from the Register and any rosters the respondent is entered in.
- (4) A reprimand issued in accordance with clause (3)(d) and conditions and restrictions imposed under clause (3)(e) are licensing sanctions against a respondent and must be dealt with in the same manner as a finding made by the Professional Conduct Committee under Section 50 of the Act.

Failing to comply with requirement of Complaints Committee

36 If a respondent fails to comply with a requirement under subsection 35(2), or otherwise fails to comply with a direction of the Complaints 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.

Costs of respondent complying with requirement of Complaints Committee

37 Expenses incurred for a respondent to comply with a requirement under subsection 35(2) must be initially paid by the College but may be awarded as costs against the respondent under Section 65.

Complaints Committee retains jurisdiction

38 The Complaints Committee retains jurisdiction over a complaint until the commencement of a hearing or the acceptance of a settlement proposal by the Professional Conduct Committee.

Settlement Proposals

Preparing and tendering settlement proposals

- 39** (1) A settlement proposal may be tendered in writing to the other party at any time before a hearing begins.
- (2) A settlement proposal must include all of the following:

- (a) sufficient facts to provide context for the admissions of the respondent and the agreed disposition;
 - (b) an admission or admissions by the respondent to 1 or more of the allegations set out in the notice of hearing;
 - (c) the respondent's consent to a specified disposition, conditional upon the acceptance of the settlement proposal by the Complaints Committee and the Professional Conduct Committee.
- (3) If both parties agree with the settlement proposal tendered under subsection (1), the College must refer the settlement proposal to the Complaints Committee for consideration.
- (4) The parties may agree to use a mediator to prepare a settlement proposal, and the costs for the mediator must be divided equally between the College and the respondent, unless the parties agree to a different division of the costs.

Complaints Committee actions when settlement proposal referred

40 (1) The Complaints Committee may recommend acceptance of a settlement proposal if satisfied that all of the following criteria are met:

- (a) the public is protected;
 - (b) the conduct or its causes can be, or has been, successfully remedied or treated, and the respondent is likely to successfully pursue any remediation or treatment required;
 - (c) settlement is in the best interests of the public and the profession.
- (2) If the Complaints Committee recommends acceptance of a settlement proposal, the Complaints Committee must refer the settlement proposal to the Professional Conduct Committee for consideration.
- (3) If the Complaints Committee does not recommend acceptance of a settlement proposal, the Complaints Committee must do 1 of the following:
- (a) recommend changes to the settlement proposal that
 - (i) if agreed upon by the parties will result in acceptance by the Complaints Committee, or
 - (ii) if not agreed upon by the parties will result in rejection by the Complaints Committee;
 - (b) reject the settlement proposal and refer the complaint considered by the Complaints Committee to the Professional Conduct Committee for a hearing.

Professional Conduct Committee actions when settlement proposal referred

- 41 (1)** If the Professional Conduct Committee accepts a settlement proposal, the settlement proposal may form the full decision of the Professional Conduct Committee or may form part of a written decision of the Professional Conduct Committee and, except as provided in subsection 42(3) for a breach of the settlement proposal, there is no hearing.
- (2)** If the Professional Conduct Committee does not accept a settlement proposal, it must do 1 of the following:
- (a)** suggest amendments to the settlement proposal and return it to the parties for review;
 - (b)** reject the settlement proposal and refer the matter to another panel of the Professional Conduct Committee for a hearing.
- (3)** If both parties do not agree with the amendments to a settlement proposal made under clause (2)(a), the settlement proposal is deemed to be rejected and the matter must be referred to another panel of the Professional Conduct Committee for a hearing.
- (4)** If both parties agree with the amendments to a settlement proposal made under clause (2)(a), the settlement proposal must be sent back to the Complaints Committee who must do 1 of the following:
- (a)** accept the settlement proposal;
 - (b)** reject the settlement proposal and refer the matter to another panel of the Professional Conduct Committee for a hearing.
- (5)** A person who sits on a panel of the Professional Conduct Committee that reviews a rejected settlement proposal must not sit on a panel of the Professional Conduct Committee that conducts a hearing related to the same complaint.

Settlement proposals and hearings

- 42 (1)** If a settlement proposal is rejected by the Professional Conduct Committee, a hearing must proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until after the Professional Conduct Committee has determined whether professional misconduct, conduct unbecoming, incompetence or incapacity has been proven.
- (2)** Before deciding whether to award costs in a hearing, the Professional Conduct Committee may be given a copy of any settlement proposals exchanged between the parties.
- (3)** Any alleged breach by a respondent of an accepted settlement proposal must be referred to a Professional Conduct Committee and may form the subject of a new hearing.

- (4) A settlement proposal may include any disposition that could be ordered by the Professional Conduct Committee under the Act or these regulations.

Fitness to Practise Committee

Assessment for incapacity

- 43 (1) When considering whether to refer a matter to the Fitness to Practise Committee under Section 39 of the Act, the Executive Director-Registrar must consider whether the member is eligible for referral to the Fitness to Practise Committee according to criteria for eligibility approved by the Board, and only then may request that the member undergo an assessment for incapacity.
- (2) The Executive Director-Registrar must process a complaint about a member involving allegations of incapacity as a complaint in accordance with the Act and these regulations if the member does not agree to undergo an assessment under subsection (1).
- (3) If no complaint is made, the Executive Director-Registrar may process a disclosure made to the College under Section 39 of the Act as a complaint in accordance with the Act and these regulations if the member does not agree to undergo an assessment under subsection (1).
- (4) If the results of an assessment under subsection (1) do not establish that the member is or was incapacitated, the Executive Director-Registrar must determine whether any aspect of the matter requires further action under the Act or these regulations.
- (5) If a member is not eligible for referral to the Fitness to Practise Committee according to criteria for eligibility approved by the Board, the Executive Director-Registrar must determine whether any aspect of the matter requires further action under the Act or these regulations.

Remedial agreement

- 44 (1) If the results of an assessment for incapacity establish incapacity of a member, the College may propose a remedial agreement to the member setting out the terms and conditions the College considers appropriate to meet the objects of the College.
- (2) If a member and the College agree to terms and conditions of a remedial agreement, the remedial agreement must be sent to the Fitness to Practise Committee for approval.
- (3) If a member and the College do not agree to the terms and conditions of a remedial agreement, the Executive Director-Registrar must process the matter as a complaint in accordance with the Act and these regulations.

Fitness to Practise Committee disposition

- 45 (1) On receiving a proposed remedial agreement, the Fitness to Practise Committee must do 1 of the following:
 - (a) approve the remedial agreement, if the Fitness to Practise Committee is satisfied that all of the following are met:

- (i) the public is protected,
 - (ii) the conduct or its causes can be, or have been, successfully remedied or treated, and the member is likely to successfully pursue any remediation or treatment required,
 - (iii) the agreement is in the best interests of the public and the profession;
- (b) recommend changes to the remedial agreement that
- (i) if agreed upon by the College and the member, will result in acceptance by the Fitness to Practise Committee, or
 - (ii) if not agreed upon by the College and the member, will result in rejection by the Fitness to Practise Committee;
- (c) reject the remedial agreement and refer the matter to the Complaints Committee.
- (2)** A remedial agreement approved by the Fitness to Practise Committee may contain any of the following:
- (a) conditions or restrictions on the member's licence, or an undertaking to refrain from practice;
 - (b) terms and conditions that must be satisfied by the member before the member returns to practice;
 - (c) terms, conditions or restrictions applicable after the member returns to practice.
- (3)** Any conditions or restrictions placed on a member's licence under a remedial agreement must be noted on the member's licence and in the College's records, and the Executive Director-Registrar may notify the member's present or intended employer and any other individuals of the conditions or restrictions.
- (4)** If a member voluntarily undertakes not to practise practical nursing until certain conditions of their remedial agreement have been completed, the Executive Director-Registrar may notify the member's present or intended employer and any other individuals, and must
- (a) retrieve the licence from the member;
 - (b) remove the member's name from any applicable rosters; and
 - (c) notify other Canadian nursing jurisdictions and any other jurisdictions where the member is known to have been registered.

Publication of Fitness to Practise Committee's decision

- 46** Subject to any publication bans imposed by the Fitness to Practise Committee, the Fitness to Practise Committee must prepare a written decision regarding its disposition of a matter referred to it and
- (a) must direct the Executive Director-Registrar to provide a copy of its decision to the member and, if applicable, the complainant;
 - (b) may direct the Executive Director-Registrar to provide a copy of the decision or portions of the decision to any past, present or intended employers of the member and any other individuals;
 - (c) may direct the Executive Director-Registrar to provide notification to other Canadian practical nursing jurisdictions and any other known jurisdictions where the member is known to have been registered.

Jurisdiction of Fitness to Practise Committee

- 47 (1)** The Fitness to Practise Committee retains jurisdiction over a member who is subject to ongoing terms and conditions of a remedial agreement.
- (2)** The Fitness to Practise Committee must refer the matter to the Complaints Committee for processing as a complaint under the Act and these regulations if the Fitness to Practise Committee determines that a member who is subject to a remedial agreement does any of the following:
- (a) fails to meet the terms and conditions of their remedial agreement;
 - (b) poses a threat to the public;
 - (c) poses a threat to their own health or safety or the health or safety of others.

Hearings

Notice of hearing

- 48 (1)** A notice of hearing sent by registered mail is deemed to have been served on the date it was posted.
- (2)** A notice of hearing must state the details of the charges and state that the respondent has the right to be represented by legal counsel, a union representative or another representative.

Amendment of notice of hearing

- 49 (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 or alter the notice of hearing for any of the following reasons:
- (a) to correct an alleged defect in substance or form;

- (b) to 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 any of the following that is not stated in the notice:
 - (i) potential professional misconduct,
 - (ii) potential conduct unbecoming,
 - (iii) potential incapacity or incompetence.
- (2) A respondent must be given an opportunity to respond to an amendment or alteration to a notice of hearing made by the Professional Conduct Committee.
- (3) After receiving the respondent's response under subsection (2), the Professional Conduct Committee may decide that an amendment or alteration to the notice of hearing should not be made and, if considered appropriate, may refer any new allegations to the Executive Director-Registrar for processing as a new complaint under the Act and these regulations.

Public notice of hearing

50 The College must give public notice of any scheduled hearings through its web site or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of the hearing;
- (b) reference to any application being made for an order to exclude the public under subsection 51(2).

Attendance at a hearing

51 (1) Except as provided in subsection (2) or (3), 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 any of the following apply:
 - (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.
- (3) The Professional Conduct Committee may make an order that the public be excluded from a part of a hearing that deals with a request for an order to exclude the public in whole or in part under subsection (2).
- (4) The Professional Conduct Committee may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a hearing or in any part of a hearing

dealing with an order under subsection (2) or (3).

- (5) Subject to any order made under this Section, the Professional Conduct Committee must state at a hearing its reasons for any order made under this Section.

Hearing procedures

- 52** (1) A complainant cannot participate as a party at a hearing.
- (2) The Professional Conduct Committee may determine any additional rules of procedure for hearings that are not covered by the Act or these regulations.
- (3) Witnesses at a hearing must testify under oath or affirmation.
- (4) An oath or affirmation taken at a hearing may be administered by any member of the Professional Conduct Committee or other person in attendance authorized by law to administer oaths or affirmations.
- (5) The Professional Conduct Committee may order the respondent to do 1 or more of the following during a hearing:
- (a) submit to physical or mental examinations by a qualified person or persons designated by the Professional Conduct Committee and authorize examination reports to be given to the Professional Conduct Committee;
 - (b) submit to a review of the respondent's practice by a qualified person or persons designated by the Professional Conduct Committee and authorize a copy of the review to be given to the Professional Conduct Committee;
 - (c) submit to a competence assessment or other assessment or examination the Professional Conduct Committee directs to determine whether the respondent is competent to practise practical nursing and authorize the assessment report or examination to be given to the Professional Conduct Committee;
 - (d) produce any records kept about the respondent's practice that the Professional Conduct Committee considers appropriate.

Failing to comply with requirement of Professional Conduct Committee

- 53** If a respondent fails to comply with a requirement under subsection 52(5), the Professional Conduct Committee may suspend the respondent's licence or ability to obtain a licence until the respondent complies.

Costs of respondent complying with requirement of Professional Conduct Committee

- 54** The expenses incurred for a respondent to comply with a requirement under subsection 52(5) must initially be paid by the College but may be awarded as costs against a respondent under Section 65.

Respondent fails to attend hearing

- 55** After receiving proof of service of the notice of hearing in accordance with Section 46 of the Act, the Professional Conduct Committee may proceed with the hearing in the respondent's absence and take any action authorized under the Act and these regulations without further notice to the respondent.

Subpoenaed witness fees

56 Witnesses who are present under subpoena at a hearing are entitled to the same allowances as witnesses attending a trial of an action in the Supreme Court of Nova Scotia.

Recording evidence at hearing

57 (1) All evidence presented to the Professional Conduct Committee must be recorded by a person authorized by the College.

(2) Evidence may be presented at a hearing in any manner that the Professional Conduct Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

Preserving evidence

58 Evidence obtained by the Professional Conduct Committee and information obtained by the Complaints Committee or an investigator regarding a complaint that has not been dismissed by the Complaints Committee must be preserved electronically or otherwise for at least 5 years from the date the evidence is presented or the information is obtained.

Disposition by Professional Conduct Committee

59 A Professional Conduct Committee that finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of a respondent may include any of the following in the Committee's disposition of the matter:

- (a)** revoke the respondent's registration and any licence held by the respondent and direct the Executive Director-Registrar to remove the respondent's name from the applicable rosters;
- (b)** revoke any licence held by the respondent and direct the Executive Director-Registrar to remove the respondent's name from the applicable rosters;
- (c)** for a respondent who held a temporary licence at the time of the incident giving rise to the complaint, revoke the respondent's ability to register or require the respondent to comply with any conditions or restrictions imposed by the Committee if registration is granted;
- (d)** authorize the respondent to resign from the Register and direct the Executive Director-Registrar to remove the respondent's name from the applicable rosters once the respondent has resigned;
- (e)** suspend the respondent's licence for a specific period of time and direct the Executive Director-Registrar to remove the respondent's name from the applicable rosters;
- (f)** suspend the respondent's ability to obtain a licence for a specified period of time;
- (g)** suspend the respondent's licence until any conditions the Professional Conduct Committee orders are complied with;

- (h) impose any restrictions or conditions, or both, on the respondent's licence;
- (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 the Act of the respondent's general competence to practise or competence in a particular field of the practice of practical nursing;
- (k) direct the respondent to obtain medical treatment;
- (l) direct the respondent to obtain any counselling that the Professional Conduct Committee considers appropriate;
- (m) for findings that involve practising practical nursing while not holding a valid licence, direct the respondent to pay a fine in an amount determined by the Professional Conduct Committee;
- (n) publish or disclose its findings in accordance with the Act and these regulations.

Written decision of Professional Conduct Committee

60 The Professional Conduct Committee must prepare a written report of its disposition of a hearing that includes the reasons for the decision, and must provide copies of its decision or information in accordance with Section 61.

Publication bans imposed by Professional Conduct Committee

- 61 (1)** If requested by a party, and after hearing from both parties, the Professional Conduct Committee may impose a publication ban at any time during a hearing, or on some or all of its decision, subject to such terms as determined by the Professional Conduct Committee.
- (2)** The Professional Conduct Committee must give reasons for any decision to impose a publication ban.

Disclosing and publishing decisions and licensing sanctions imposed without hearing

- 62 (1)** Except as prohibited by any publication bans, the Executive Director-Registrar must do all of the following for any licensing sanction that is issued other than through a hearing:
- (a) in addition to the annotations required to be made in the Register under Section 20 of the Act, make appropriate entries in the rosters of the College, the relevant section of the College's web site, if the College has a web site, and on any licence the member holds;
 - (b) publish a summary of the decision in accordance with subsection (2) in all of the following:
 - (i) the College's web site, if the College has a web site,

- (ii) the Professional Conduct Digest retained by the College and available to the public,
 - (iii) any official publication determined by the Professional Conduct Committee;
 - (c) as required by clause 52(1)(c) of the Act, notify all of the following of the licensing sanction ordered, and include any other information requested by the other licensing jurisdictions:
 - (i) registering bodies in other Canadian practical nursing jurisdictions,
 - (ii) registering bodies in the original practical nursing jurisdiction,
 - (iii) registering bodies in other practical nursing jurisdictions where the member is known to have practised;
 - (d) give the respondent a copy of the decision;
 - (e) give any of the decision that the Professional Conduct Committee permits to the complainant;
 - (f) give any of the following to any person the Committee making the decision directs:
 - (i) notice of the decision,
 - (ii) a summary of the decision,
 - (iii) parts of the decision,
 - (iv) a copy of the decision.
- (2)** Except for information that must be excluded under subsection (3), the summary of the decision required by clause (1)(b) must be prepared by the College and must contain all of the following information:
- (a) the member's name, city or town of residence and registration number;
 - (b) the provision of the Act or these regulations under which the licensing sanction is issued;
 - (c) the date of the decision;
 - (d) the allegations that were upheld by the Professional Conduct Committee or the Complaints Committee or, for a consent revocation, the allegations that were either admitted by or not contested by the respondent;
 - (e) whether the allegations amounted to professional misconduct, conduct unbecoming, incompetence or incapacity;

- (f) the disposition ordered by the Complaints Committee or the Professional Conduct Committee;
 - (g) the reasons for the decision;
 - (h) any information the College considers necessary to meet the objects of the College.
- (3) If allegations have been found to constitute incapacity, the specific nature of the incapacity must not be included in the summary of the decision published under clause (1)(b).

Disclosing and publishing decisions and licensing sanctions imposed through hearing

63 (1) Except as prohibited by any publication bans, the Executive Director-Registrar must take all of the actions set out in ~~subsection~~ [clauses] 62(1)(a), (c), (d), (e) and (f) for any licensing sanction issued following a hearing, and in addition must do the following:

- (a) publish a summary of the decision in any official publication determined by the Professional Conduct Committee;
- (b) publish a copy of the full decision on the College web site and in the Professional Conduct Digest of the College.

Consent revocation

64 (1) A respondent who does not contest the allegations or admits to some or all of the allegations set out in a complaint or a notice of hearing may, with the consent of the College, ask the Professional Conduct Committee to revoke their licence.

- (2) The Professional Conduct Committee may consent to the revocation of the respondent’s licence in accordance with subsection (1) with or without conditions, or may refuse consent.
- (3) A respondent who consents to the revocation of their licence must be treated as though their licence was revoked by the Professional Conduct Committee.
- (4) Notification of a revocation under this Section must be given in accordance with Section 63.

Costs awarded after hearing

65 (1) For purposes of this Section, “costs” includes all of the following:

- (a) expenses incurred by the College in the investigation of a complaint;
- (b) expenses incurred by the College for the activities of the Complaints Committee and the Professional Conduct Committee;
- (c) expenses incurred for a respondent to comply with a requirement under subsections 35(2) or 52(5);

- (d) the College's solicitor and client costs, including disbursements and HST, relating to the investigation and hearing of the complaint, including those of College counsel and counsel for the Professional Conduct Committee;
 - (e) fees for retaining a court reporter and preparing transcripts of the proceedings;
 - (f) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a hearing.
- (2) Except when awarded costs under this Section, a respondent is responsible for all expenses incurred in their defence.
 - (3) If the Professional Conduct Committee finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of a respondent, it may order that the respondent pay costs in whole or in part.
 - (4) If the Professional Conduct Committee considers that a hearing was not necessary, it may order the College to pay some or all of the respondent's costs.
 - (5) The Executive Director-Registrar may suspend the licence of any respondent who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

Reinstatement

Applying for reinstatement

- 66** (1) An application for reinstatement of registration or a licence must be sent in writing to the Executive Director-Registrar together with the applicable application fee.
- (2) An application must include any information the Re-instatement Committee requires to assist it in determining whether the objects of the College will be met if reinstatement is granted.

Investigation concerning reinstatement application

- 67** (1) On receiving an application for reinstatement, the Executive Director-Registrar may request that an investigation be conducted to gather relevant and appropriate information concerning the application.
- (2) A person who conducts an investigation must give a written report to the Re-instatement Committee and the applicant that contains all material relevant to the application, including the decision of the Professional Conduct Committee that revoked the applicant's registration or licence, and any relevant information gathered during the investigation.
- (3) The Re-instatement Committee must set a date for a proceeding to review a reinstatement application and must advise the applicant of the date.
- (4) Evidence before the Re-instatement Committee must be taken under oath and recorded, and is subject to cross-examination.

Attendance at proceeding for review of reinstatement application

- 68** (1) Except as provided in subsection (2), a proceeding to review a reinstatement application is open to the public.
- (2) At the request of a party, the Re-instatement Committee may order that the public, in whole or in part, be excluded from a proceeding to review a reinstatement application or any part of it if the Re-instatement Committee is satisfied that any of the following apply:
- (a) personal, medical, financial or other matters that may be disclosed at the proceeding are of such a nature that avoiding public disclosure of those matters in the interest of the public interest 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.
- (3) The Re-instatement Committee may make an order that the public be excluded from a part of a proceeding that deals with a request for an order to exclude the public in whole or in part under subsection (2).
- (4) The Re-instatement Committee may make any orders it considers necessary, including orders prohibiting publication or broadcasting of those matters, to prevent the public disclosure of matters disclosed in a proceeding or any part of a proceeding dealing with an order under subsection (2) or (3).
- (5) Subject to any order made under this Section, the Re-instatement Committee must state at the proceeding to review a reinstatement application its reasons for any order made under this Section.

Decision of Re-instatement Committee

- 69** (1) After considering the evidence and the representations from an applicant and the College representative, the Re-instatement Committee must decide to accept or reject the reinstatement application and communicate its decision, together with reasons, in writing to the applicant and to the Executive Director-Registrar.
- (2) If the Re-instatement Committee accepts a reinstatement application, the Committee may impose any restrictions and conditions it considers appropriate relating to the reinstatement of the applicant, and the applicant must satisfy all criteria required for a licence.
- (3) Except as provided in subsection (4), a decision of the Re-instatement Committee concerning an application for reinstatement is final.
- (4) An applicant may resubmit a reinstatement application no sooner than
- (a) 1 year after the date of the Re-instatement Committee's initial decision to reject their application; or
 - (b) after a period longer than the period in clause (a), as determined by the Re-instatement Committee that rejected the initial application.

Costs of reinstatement application

70 (1) For purposes of this Section, “costs” includes all of the following:

- (a) expenses incurred by the College in the investigation of a reinstatement application;
 - (b) expenses incurred by the College for the activities of the Re-instatement Committee;
 - (c) the College’s solicitor and client costs, including disbursements and HST, relating to a reinstatement application and proceeding, including those of College counsel and counsel for the Re-instatement Committee;
 - (d) fees for retaining a court reporter and preparing transcripts of reinstatement proceedings;
 - (e) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a reinstatement proceeding.
- (2)** An applicant is responsible for all expenses incurred in their reinstatement application and proceeding.
- (3)** Whether the application is accepted or rejected, the Re-instatement Committee may recover costs from the applicant.
- (4)** The Executive Director-Registrar may suspend the licence of any person who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

Licensed Practical Nurses Regulations

made under subsection 9(2) of the

Licensed Practical Nurses Act

S.N.S. 2006, c. 17

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