



BYLAW 5

PROFESSIONAL CONDUCT

Date Revised: September 01, 2020

Approved by BOD: September 16, 2020

Ratified by Membership:

SECTION 1 Definitions

In this bylaw

- (a) “Act” shall mean the Nursing Profession Act S.N.W.T. 2003, c. 15 as amended;
- (b) “Association” shall mean the “Association” as defined in section 1 of the Act;
- (c) “bylaws” shall mean the bylaws of the Association;
- (d) “Committee” shall mean the “Committee” as defined in section 30 (1) of the Act;
- (e) “Complainant” shall mean “complainant” as defined in section 30 (1) of the Act;
- (f) “nurse” shall mean “nurse” as defined in section 30 (1) of the Act; and
- (g) “Respondent” shall mean the nurse whose conduct is the subject of the complaint.

SECTION 2 Public Interest

All complaints regarding the professional conduct of a nurse shall be handled in a manner that fulfills the Association’s responsibility to protect the public.

SECTION 3 Unprofessional Conduct

Unprofessional conduct includes any act or omission that violates the code of ethics or the standards of practice for registered nurses or nurse practitioners as adopted.

SECTION 4 Mandatory Reporting

- (1) A nurse who is aware of unsafe, unethical or incompetent nursing practice of another nurse shall provide a written complaint of the unsafe, unethical or incompetent nursing practice to the Executive Director of the Association. A complainant must have reasonable grounds to believe:
 - (a) the nurse is unfit to continue to practice due to a physical or mental disorder;
 - (b) the actions of the nurse do not meet the:



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- standards of practice for registered nurses or nurse practitioners as adopted by the Association,
 - code of ethics for registered nurses as adopted by the Association; and
- (c) the continued practice of the nurse might constitute a danger to person(s) in his or her care.
- (2) A complaint shall be submitted in a timely manner, even if the respondent, resigns, is terminated or relocates.
- (3) No professional conduct action will be taken by the Association against a nurse, for the sole reason he or she complied with this section of the bylaw, unless the complaint is proven to be vexatious.
- (4) Failure to abide with the above sections may result in a complaint of unprofessional conduct.

SECTION 5 Confidentiality

Except as is required by the Act and the bylaws, all information regarding the review of conduct of a nurse will be kept confidential.

SECTION 6 Professional Conduct Committee

- (1) The Committee shall be composed of:
- (a) at least five registered nurses or nurse practitioners who are members of the Association;
 - (b) one or more members of the public who are residents of the Northwest Territories and;
 - (c) one or more members of the public who are residents of the Northwest Territories or Nunavut.
- (2) The Chairperson and the Deputy Chairperson shall hold office for a three - year term and may be re-appointed.



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- (3) The registered nurses or nurse practitioners on the Committee, who are not the Chairperson or Deputy Chairperson, shall hold office for a three - year term and may be re-appointed.
- (4) Those members referred to in sub-sections (1) (b) and (c) shall hold office for a three-year term and may be re-appointed.
- (5) The Chairperson shall:
 - (a) review all complaints received pursuant to the Act;
 - (b) perform all powers and duties mandated under the Act; and
 - (c) present an annual report of all activities of the Committee to the Board of Directors.
- (6) The Deputy Chairperson may:
 - (a) perform any duty of the Chairperson as requested by the Chairperson; and
 - (b) perform the duties of the Chairperson in the absence of the Chairperson.
- (7) Members of the Committee shall identify any potential ground for an allegation of bias prior to, or at any point during, their involvement in the review of a complaint about a nurse or nurse practitioner.
- (8) A member of the Committee shall not be a member of the Board of Directors or a member of the Registration Committee.

SECTION 7 Alternative Dispute Resolution Process

- (1) If appropriate, the Chairperson may refer a complaint to Alternative Dispute Resolution, in accordance with Section 37 (1) of the Act.
- (2) The parties to the Alternative Dispute Resolution are the Committee, the Complainant and the Respondent.



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- (3) When a complaint is referred to Alternative Dispute Resolution a negotiation between the Respondent, Complainant (if the Complainant chooses to participate) and the Executive Director who shall act as an agent of the Professional Conduct Committee Chairperson is facilitated by:
 - (a) the Director of Professional Conduct Review; or
 - (b) a mediator.
- (4) No settlement of a complaint under the Alternative Dispute Resolution process comes into effect unless the Chairperson of the Professional Conduct Committee approves the terms and conditions of the settlement.

SECTION 8 Board of Inquiry

- (1) When a complaint is referred to a Board of Inquiry in accordance with Section 41 (1) (a) of the Act, the Board shall designate three members of the Professional Conduct Committee to be members of the Board of Inquiry to hear the complaint.
- (2) One of the members designated under subsection (1) shall be a public member
- (3) No person who investigated the complaint shall be appointed to the Board of Inquiry hearing the specified complaint.
- (4) A Board of Inquiry shall operate under the rules of procedure approved by the Professional Conduct Committee.
- (5) A Board of Inquiry is not bound by the rules of evidence, but all hearings shall be conducted in accordance with the principles of natural justice.
- (6) Any person may attend a hearing before a Board of Inquiry, unless the Board of Inquiry decides, in accordance with section 43 (4) of the Act, that some or all of the hearing should be held in private.
- (7) A Board of Inquiry may be held in any location in the Northwest Territories or Nunavut, as determined by the Chairperson of the Professional Conduct Committee.



- (8) A digital audio recording of the Board of Inquiry proceedings will be made and form part of the record.
- (9) The Respondent may, upon paying the reasonable costs of transcribing, copying or delivering the record of the Board of Inquiry hearing, obtain a copy of it.

SECTION 9 Decision of the Board of Inquiry

- (1) The Board of Inquiry may seek independent legal counsel to assist in writing the decision of the Board of Inquiry.
- (2) In accordance with the Act, the reasons provided for the decision of the Board of Inquiry shall refer to the Code of Ethics and accepted Standards of Practice for Registered Nurses and Nurse Practitioners as necessary.

SECTION 10 Conditional Resignation

- (1) If the nurse resigns from the nursing register prior to an investigation into a complaint against the nurse, or at any point during the review of conduct prior to the completion of a hearing into the complaint, the complaint shall go to Alternative Dispute Resolution.
- (2) As part of any alternative dispute resolution agreement reached by the parties, the resignation of the nurse may be accepted by the Chairperson.
- (3) The outcome of the Alternative Dispute Resolution shall be included as a decision in the public register of decisions and orders in accordance with section 37 (3) of the Act.

SECTION 11 Suspensions of, and Limitations, Terms or Conditions on Registration

- (1) The Director of Professional Conduct Review shall notify the Registrar of any decision of a Board of Inquiry or Panel to suspend or to impose any terms, conditions or limitations on a nurse.



- (2) Any undertakings, terms, conditions, or limitations that are imposed on a nurse shall be indicated on the certificate of registration of the nurse who shall surrender all other certificates of registration to the Association.
- (3) Unless otherwise specifically agreed in the Alternative Dispute Resolution, the nurse shall provide a copy of the Settlement Agreement or Board of Inquiry decision to the nurse's employer. Before a nurse may return to practice with that employer, written confirmation and acceptance from the employer of undertakings, terms, conditions or limitations in the Settlement Agreement or Board of Inquiry decision, must be received by the Association.
- (4) A nurse whose certificate or temporary certificate of registration has been suspended, shall surrender the nurse's certificate of registration to the Association.
- (5) A nurse whose certificate of registration or temporary certificate has been suspended, may apply to the Registrar for a temporary certificate if a temporary certificate is required to undertake supervised practice or to undertake a course of studies that requires the nurse to engage in the practice of nursing, as agreed in the Settlement Agreement or ordered by a Board of Inquiry.

SECTION 12 Records

The Association shall keep all records related to a review of conduct of a nurse in accordance with the policy of the Association.

SECTION 13 Notification of Other Jurisdictions

The Executive Director will notify the bodies regulating the practice of nursing in other Canadian Jurisdictions of any limitations on a nurse's practice imposed by

- (a) The Professional Conduct Committee under section 36 of the Act and Bylaw 6;
- (b) A Board of Inquiry;
- (c) The Appeals Committee;
- (d) The Supreme Court or;
- (e) The settlement of a complaint by alternate dispute resolution under section 37 of the Act