



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **REGISTERED NURSES ACT PROFESSIONAL CONDUCT REVIEW REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to November 19, 2016. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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**REGISTERED NURSES ACT****Chapter R-8.1****PROFESSIONAL CONDUCT REVIEW REGULATIONS**

Pursuant to section 35 of the *Registered Nurses Act* R.S.P.E.I. 1988, Cap. R-8.1, the Lieutenant Governor in Council approved the following regulations made by the Association of Registered Nurses of Prince Edward Island:

**1. Definitions**

In these Regulations

- (a) “**Act**” means the *Registered Nurses Act* R.S.P.E.I. 1988, Cap. R-8.1;
- (b) “**appellant**” means a member of the Association, or the holder of a permit issued by the Association, who appeals a decision of the Review Committee;
- (c) “**Committee member**” means a member of the Review Committee appointed under subsection 2(1);
- (d) “**complainant**” means the person who files a complaint against a member of the Association;
- (e) “**investigator**” means an investigator who investigates a complaint and includes an investigation panel;
- (f) “**mediation**” or “**mediation process**” includes any method of alternative dispute resolution approved by the Council;
- (g) “**panel**” means an investigation panel or a formal inquiry panel of the Review Committee;
- (h) “**public member**” means a public member of the Review Committee as described in section 2;
- (i) “**registered nurse member**” means a registered nurse who is a member of the Review Committee as described in section 2;
- (j) “**respondent**” means a member of the Association, or the holder of a permit issued by the Association, who is the subject of a complaint. (EC92/06)

**2. Membership of Review Committee**

- (1) The Review Committee appointed by the Council under subsection 24(1) of the Act shall be comprised of the following members, all of whom may vote at meetings of the Committee:
  - (a) not less than seven registered nurses, one of whom shall be named as the chairperson;
  - (b) not less than two public members appointed to represent the public.

**Qualifications of registered nurse members**

- (2) The registered nurse members of the Committee shall have at least five years of experience in the practice of a registered nurse, and shall serve for such terms as may be determined by the Council.

**Appointment, replacement of members**

- (3) Notwithstanding any other provision of these regulations, the Council may substitute or replace any member of the Review Committee who is unable or unavailable to participate in a complaint proceeding, and the Council may appoint, reappoint, remove or replace a member of the Review Committee at any time.

**Delegation of chairperson's powers**

- (4) The chairperson of the Review Committee may delegate some or all of the chairperson's responsibilities to one or more registered nurse members of the Committee.

**Acting chairperson**

- (5) Where the chairperson of the Review Committee is unable to act, Council may select an acting chairperson from among the registered nurse members of the Committee.

**Where public member fails to attend meeting**

- (6) The failure of a public member to attend a meeting of the Review Committee shall not be construed to affect or restrict the Review Committee from exercising any powers or performing any duties under these regulations at that meeting. (EC92/06)

**3. Panels**

- (1) The Review Committee may act in panels each panel consisting of at least three registered nurse members and at least one public member.

**Investigation, panel**

- (2) The chairperson of the Review Committee shall select the members of an investigation panel in relation to every complaint referred to the Review Committee under subsection 28(1) of the Act.

**Term of office**

- (3) The term of office of the members of the Review Committee shall be three years, and shall be so arranged or adjusted as to ensure that there will not be a turn-over of more than four members in any year.

**Consider more than one complaint**

- (4) A investigation panel may consider more than one complaint in relation to one or more
- (a) respondents;
  - (b) incidents; or
  - (c) types of misconduct.

**Member may not be on both panels**

- (5) A member of the Review Committee may not sit on the investigation panel and a formal inquiry panel for the same complaint.



**Chairperson may sit on panel**

- (6) Subject to subsection (5), the chairperson of the Review Committee may sit as a member of any panel. (EC92/06)

**4. Investigation by panel or investigator**

An investigation panel of the Review Committee may investigate a complaint or retain an investigator to investigate a complaint. (EC92/06)

**5. Contents of complaint**

- (1) A person who files a complaint under section 25 of the Act shall
- (a) file the complaint on a form approved by the Council;
  - (b) sign the complaint;
  - (c) provide a description in such detail of the conduct which is the subject of the complaint as may be required by the Executive Director, including
    - (i) the identity of the respondent;
    - (ii) the date and location of any incident complained of; and
    - (iii) the circumstances complained of.

**Non-compliance with ss (1)**

- (2) Where a complaint does not comply with the requirements of subsection (1), the complaint shall be returned by the Executive Director to the complainant to correct the deficiencies, after which the complaint may be *re*-filed with the Executive Director. (EC92/06)

**6. Executive Director delivers complaint**

- (1) The Executive Director shall refer a complaint to the Review Committee pursuant to subsection 28(1) of the Act by delivering a copy of the complaint to the chairperson of the Review Committee.

**Complaint to respondent**

- (2) Upon receiving a copy of the complaint under subsection (1), the chairperson of the Review Committee shall, within 10 business days, send a copy of the complaint to the respondent.

**Withdrawal of complaint with consent**

- (3) A complainant may not withdraw a complaint that has been received by the chairperson of the Review Committee without the consent of the Review Committee.

**Written response of respondent**

- (4) The respondent shall submit a written response to the complaint to the chairperson of the Review Committee within 10 business days of receiving the complaint, or within such longer period as the chairperson may allow in writing.

**Contents of written response**

- (5) The written response of the respondent
- (a) shall state which allegations in the complaint, if any, are admitted and which allegations, if any, are denied; and
  - (b) shall give a summary of the respondent's version of the facts pertaining to the allegations in the complaint.

**Copy of response to complainant**

- (6) The chairperson of the Review Committee may forward a copy of a response of a respondent to the complainant.

**Copies to members of Committee**

- (7) The chairperson may forward to the members of the Review Committee copies of the complaint and any written response of the respondent prior to a meeting of the Review Committee.

**Effect of response**

- (8) The investigation of a complaint
- (a) may be commenced before the receipt of a written response from the respondent; and
  - (b) is not invalid if a response is late or no response is received from the respondent.  
(EC92/06)

**7. Referral of complaint and response**

The chairperson of the Review Committee shall refer the complaint and the response, if any, to an investigator pursuant to s.28(2) of the Act,

- (a) after receiving the respondent's response; or
  - (b) after the date fixed for the respondent to send a response,
- whichever is earlier. (EC92/06)

**8. Referral for mediation**

- (1) The Executive Director or the Review Committee may refer a complaint for mediation under subsection 27(1) of the Act except where the Executive Director or the Review Committee determines that
- (a) the health or safety of one or more individuals has been seriously jeopardized or compromised; or
  - (b) that it is not in the public interest to refer the complaint to mediation.

**Procedures for mediation**

- (2) The Review Committee may establish procedures to be followed with respect to mediation, including procedures pertaining to the selection of a mediator.

**Disclosure**

- (3) The complainant and the respondent shall disclose all relevant facts and documents to the mediator throughout the mediation process, and the mediator shall not disclose information received in the course of mediation to anyone, except
- (a) a statement of facts agreed to by the complainant and the respondent for the purposes of reporting to the investigation panel at the conclusion of mediation; or
  - (b) a report to the investigation panel.

**Reporting criminal activity**

- (4) Notwithstanding subsection (3),
- (a) where the mediator determines that there may be evidence of criminal or other unlawful activity, the mediator shall report such evidence to the Review Committee; and



- (b) the Review Committee may report such evidence to the appropriate police agency or licensing body.

**Written agreement**

- (5) A successful mediation shall be concluded by a written agreement
  - (a) that includes all of the terms and conditions agreed to by the parties; and
  - (b) is signed by the complainant, the respondent and the mediator.

**Agreement submitted to investigation panel**

- (6) The mediator shall submit the agreement referred to in subsection (5) to the investigation panel, and the investigation panel may
  - (a) accept the agreement and consider the complaint resolved; or
  - (b) accept the agreement and impose such additional sanctions as the panel considers necessary. (EC92/06)

**9. Investigators**

- (1) Any of the following persons may act as an investigator pursuant to s.28(2) of the Act:
  - (a) the chairperson or a registered nurse member;
  - (b) a paid employee of, or person acting under a contract with, the Association;
  - (c) a member of the Association;
  - (d) the Executive Director; or
  - (e) any other person appointed by the chairperson of the Review Committee.

**Duties of investigator**

- (2) An investigator shall
  - (a) interview the complainant to clarify and obtain details of the complaint and evidence relating to the complaint;
  - (b) interview the respondent who is the subject of the complaint to determine what aspects of the complaint are disputed, whether the respondent intends to oppose the complaint, and what evidence the respondent intends to adduce;
  - (c) determine whether the respondent has previously been the subject of a complaint or disciplinary action in this province or by a professional body in another jurisdiction;
  - (d) interview such other persons as may have personal knowledge in respect of the complaint to determine the general nature of their knowledge and their willingness to testify at a hearing of the Committee into the complaint;
  - (e) ascertain the existence of records that may be relevant to the complaint, review those records, and ascertain whether the production of certain records or certified copies from authorized custodians thereof at a formal inquiry is likely to be contested;
  - (f) take custody of original records where possible, and obtain copies of all other records which appear to be relevant to the complaint;
  - (g) ascertain the existence of any other evidence that may be relevant to the complaint and determine whether the evidence can be made available for a hearing of the Committee into the complaint; and
  - (h) notify the chairperson of the Review Committee if evidence of any other misconduct is discovered during the course of the investigation.

**Other matters arising during investigation**

- (3) If any other matter concerning the conduct of the respondent arises in the course of an investigation or inquiry, the Review Committee may consider the matter as an additional complaint, after the Review Committee has given the respondent a sufficient opportunity to prepare a response to the further matter.

**Relevant records or information**

- (4) Any person, including any employer, having records or information relevant to an investigation or inquiry shall cooperate with the investigator and permit the investigator to review or copy the records or information. *(EC92/06)*

**10. Investigation report**

- (1) An investigator shall complete a written investigation report summarizing the investigation and, in the case of an individual investigator, submit the report to the investigation panel.

**Contents of investigation report**

- (2) The investigation report referred to in subsection (1) shall include the following information:
- (a) a copy of the complaint;
  - (b) a copy of the response, if any, of the respondent;
  - (c) a list of potential witnesses together with a description of their roles related to the complaint and the nature of their evidence; and
  - (d) a list and description of the documents and any other evidence which appear to be relevant to the complaint.

**Copy of report to respondent**

- (3) The investigator shall send a copy of the investigation report to the respondent not later than 10 business days prior to a meeting of the investigation panel for the purpose of considering the report. *(EC92/06)*

**11. Meeting to consider investigation report**

- (1) The investigation panel shall conduct a meeting to consider the investigation report, and do one of the following:
- (a) determine that the conclusions of the investigation report could not reasonably support a finding of professional misconduct, conduct unbecoming the profession of nursing, incompetence, incapacity or lack of fitness to practice, as the case may be, and accordingly, that the complaint should be dismissed;
  - (b) determine that the complaint does not involve conduct which is sufficiently serious to require a formal inquiry, and dismiss the complaint;
  - (c) determine that the evidence disclosed by the investigation report could, if proved, support a finding of professional misconduct, conduct unbecoming the profession of nursing, incompetence, incapacity or lack of fitness to practice, as the case may be, and accordingly, that a formal complaint shall be delivered to the respondent relating to all or any part of the subject matter of the complaint, or any matter disclosed by the investigation; or
  - (d) determine that mediation should be attempted, and refer the complaint to a mediator.



**Notice of meeting**

- (2) The chairperson of the investigation panel shall give reasonable notice of the meeting to the respondent, complainant and investigator.

**Submissions respecting investigation report**

- (3) The investigation panel may permit the respondent and the complainant to make submissions in person or in writing with respect to the investigator's report at the investigation panel meeting.

**Investigator to attend meeting**

- (4) Unless the investigation panel decides otherwise, the investigator, if an individual, shall attend the meeting described in subsection (1) to explain or clarify the investigation report.

**No evidence or testimony at meeting**

- (5) The investigation panel shall not receive evidence or hear testimony at the meeting described in subsection (1).

**Decision reported to Council**

- (6) Following the meeting described in subsection (1), the investigation panel shall report its decision to Council. (EC92/06)

**12. Members of the formal inquiry panel**

- (1) Where the Review Committee decides to conduct a formal inquiry into the complaint, the chairperson of the Review Committee shall
- (a) assume the role of chairperson of the formal inquiry panel, or appoint a chairperson from the registered nurse members;
  - (b) select the members of the formal inquiry panel from the members of the Review Committee; and
  - (c) appoint a person to adduce evidence during the formal inquiry, who may be the investigator of the complaint, a member of the Association, or a lawyer or other individual hired by the Association.

**Notice of hearing**

- (2) The chairperson of the formal inquiry panel shall send a notice of hearing as required by this section to
- (a) the members of the formal inquiry panel;
  - (b) the complainant;
  - (c) the respondent;
  - (d) witnesses, as determined by the person appointed to adduce evidence;
  - (e) such other persons as the chairperson of the formal inquiry panel determines.

**Contents of notice**

- (3) A notice of hearing under subsection (2) shall
- (a) describe the conduct which will be the subject of the formal inquiry in sufficient detail, including reference to specific legislative provisions, where practicable, to identify the occurrence and give the respondent sufficient information upon which to prepare an answer or defence to the complaint; and
  - (b) specify the date, time and place scheduled for the commencement of the formal inquiry; and

**Notice in person or by registered mail**

- (4) A notice referred to in these regulations shall be provided
- (a) to the respondent, in person or by certified mail; and
  - (b) to other persons, in person, by certified mail or by ordinary mail.

**Notice to last address**

- (5) Notice shall be effective if sent or delivered to the last address of a person for which the Registrar has a record.

**Receipt of notice**

- (6) Unless the contrary is proved, a notice sent by certified or ordinary mail is deemed to have been received not later than three business days after its receipt by the postal authority.

**5 business days notice**

- (7) Unless otherwise specified by the Review Committee, notice of at least five business days is a sufficient period of notice for any purpose under these regulations.

**Adjournment for lack of notice**

- (8) Where sufficient notice has not been given and is not waived, the meeting or inquiry shall be adjourned to permit proper notice to be given.

**Complainant does not appear**

- (9) Where the complainant, after being given notice in accordance with these regulations, does not appear at a meeting or inquiry held pursuant to these regulations, the Review Committee may dismiss the complaint. *(EC92/06)*

**13. Disclosure of witnesses, etc.**

- (1) At least 10 business days prior to the commencement of the formal inquiry, the person appointed to adduce evidence shall provide to the respondent the following:
- (a) a list of witnesses to be called at the formal inquiry;
  - (b) copies of all documents and any other evidence to be submitted at the formal inquiry that the respondent has not previously received.

**Idem**

- (2) At least 10 business days prior to the commencement of the formal inquiry, the respondent and the complainant shall provide to the person appointed to adduce evidence the following:
- (a) a list of any witnesses either intends to call at the formal inquiry;
  - (b) copies of all documents and any other evidence that either intends to submit at the formal inquiry. *(EC92/06)*

**14. Procedure**

- (1) A formal inquiry panel may determine its own procedure for the conduct of a formal inquiry pursuant to section 30 of the Act, which may vary from complaint to complaint.

**Agreed statement of facts, evidence**

- (2) The formal inquiry panel may
- (a) consider an agreed statement of facts or a joint submission on penalty instead of hearing evidence in relation to part or all of the allegations in the complaint; or



- (b) require evidence to be adduced in addition to an agreed statement of facts or a joint submission.

**Order of presentation**

- (3) Unless the formal inquiry panel determines otherwise, evidence at a formal inquiry shall be sworn and presented
  - (a) firstly by the person appointed to adduce evidence; and
  - (b) secondly by the respondent.

**Additional evidence**

- (4) The formal inquiry panel may adjourn the formal inquiry to allow additional evidence to be gathered or presented.

**Administration of oath**

- (5) Any member of the formal inquiry panel may administer an oath pursuant to section 14 of the *Evidence Act*.

**Copies as evidence**

- (6) The formal inquiry panel may receive into evidence and rely upon a copy of any document instead of an original where the formal inquiry panel is satisfied that the copy is an accurate copy of the original. (EC92/06)

**15. Compellable witnesses**

- (1) The respondent, the complainant and any other person who, in the opinion of the chairperson of the Review Committee, has knowledge of the complaint or the conduct being investigated are compellable witnesses in any proceedings related to a complaint.

**Subpoenas**

- (2) The chairperson of the Review Committee has the authority to issue subpoenas for the attendance of witnesses and production of documents at a formal inquiry.

**Enforceable as if issued by court**

- (3) A subpoena issued under these regulations may be enforced as if the subpoena had been issued by the Supreme Court of Prince Edward Island. (EC92/06)

**16. Decision**

- (1) At the conclusion of a formal inquiry, the formal inquiry panel shall render its decision in writing, with reasons.

**Delivery of decision**

- (2) The written decision of the formal inquiry panel shall be delivered to the Council, the respondent and the complainant forthwith, and the Council shall determine whether the decision shall be communicated to other persons or published. (EC92/06)

**17. Proceeding in absence of person who had notice**

- (1) Where the chairperson of a meeting or inquiry held under these regulations determines that a notice has been given in accordance with these regulations, the meeting may proceed in the absence of any person to whom the notice was given.

**Adjournment**

- (2) The chairperson holding a meeting or inquiry referred to in these regulations may adjourn the meeting or inquiry to a fixed date without providing further written notice to the persons in attendance at such meeting or inquiry.

**Proof of sending or receiving document**

- (3) The receipt or sending of a document may be proved by the certificate of the person responsible for receiving or sending the document.

**Record of Association**

- (4) A copy of any record of the Association in its custody that is certified as a copy by the Executive Director is sufficient proof of the original or of the copy in the custody of the Association.

**Forms**

- (5) The Council may approve forms for use in connection with these regulations including
- (a) a form of complaint;
  - (b) a form of notice in respect to a meeting; and
  - (c) a form of notice of appeal. (EC92/06)

**18. Appeals Committee appointed**

- (1) The Council shall, upon the receipt of a notice of appeal under subsection 34(2) of the Act, appoint an Appeals Committee comprised of a chairperson and at least two other registered nurse members of the Association with experience in professional conduct matters, and a representative of the public, each of whom may vote at appeal hearings and meetings of the committee.

**Members not involved at previous stage**

- (2) Notwithstanding subsection (1), the Council shall not appoint any person to the Appeals Committee who sat as a member of an investigation or formal inquiry panel respecting the complaint. (EC92/06)

**19. Notice of appeal**

- (1) The appellant shall date and sign a notice of appeal under subsection 34(2) of the Act and file the notice of appeal with the Executive Director, who shall
- (a) note the date of receipt on the notice of appeal; and
  - (b) notify the chairperson of the Review Committee and the chairperson of the Appeals Committee that the notice of appeal has been filed.

**Record, transcript to be prepared**

- (2) Upon receiving the notice of appeal, the chairperson of the Review Committee shall direct the chairperson of the formal inquiry panel cause the following to be prepared:
- (a) a record of the formal inquiry, which shall include all documents and exhibits which were used, considered or created by the formal inquiry panel at the formal inquiry;
  - (b) a transcript of the formal inquiry.



**Delivery of record and transcript**

- (3) The chairperson of the formal inquiry panel shall deliver the record and the transcript referred to in subsection (2)
- (a) to the chairperson of the Appeals Committee; and
  - (b) to the appellant,
- within 60 business days of the filing of the notice of appeal, or within such additional time as the chairperson of the Appeals Committee may determine. (EC92/06)

**20. Notice of hearing**

- (1) The chairperson of the Appeals Committee shall notify the appellant and the chairperson of the formal inquiry panel of the time, date and place for the hearing of the appeal, at least 10 business days prior to the hearing.

**Parties**

- (2) The appellant and the chairperson of the formal inquiry panel of the Review Committee may attend and be heard at an appeal hearing and may be represented by counsel.

**Other persons may attend**

- (3) The chairperson of the Appeals Committee may permit other persons to attend an appeal hearing. (EC92/06)

**21. Decision**

- (1) The written decision of the Appeals Committee shall be provided to
- (a) the Council;
  - (b) the appellant;
  - (c) the chairperson of the formal inquiry panel; and
  - (d) the chairperson of the Review Committee.

**Decision provided to appellant**

- (2) The decision on the appeal shall be provided to the appellant by personal delivery or by registered mail.

**Communication or publication of decision**

- (3) The Council may communicate the decision on the appeal to other persons or may allow the decision to be published. (EC92/06)

**22. Resolution of Council**

Where the Council must agree upon some matter or act under these regulations, a resolution of the Council is sufficient to establish that the Council has agreed or acted. (EC92/06)

**23. Information confidential**

- (1) Subject to subsections (2) and (3), every person who obtains information in dealing with a complaint under these regulations shall keep that information confidential.

**Disclosure of complaint**

- (2) Where a complaint has been made against a member, the Executive Director or the Registrar may, disclose the existence of the complaint on the inquiry of an employer or prospective employer of the member or of another professional regulatory body.

**Criminal activity**

- (3) The chairperson of the Review Committee may communicate evidence of criminal or other unlawful activity to the appropriate authorities, including law enforcement organizations and professional discipline bodies in other jurisdictions. *(EC92/06)*

