



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

SOCIAL WORK ACT STANDARDS AND DISCIPLINE REGULATIONS

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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).

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SOCIAL WORK ACT
Chapter S-5

STANDARDS AND DISCIPLINE REGULATIONS

Pursuant to section 8 of the *Social Work Act* R.S.P.E.I. 1988, Cap. S-5, and after consultation with the Prince Edward Island Association of Social Workers, the Prince Edward Island Social Work Registration Board made, and the Lieutenant Governor in Council approved, the following regulations:

1. Definitions

In these regulations:

- (a) “**Act**” means the *Social Work Act* R.S.P.E.I. 1988, Cap. S-5;
- (b) “**agreement**” means an agreement between a complainant and an affected social worker made pursuant to subsection 8(2);
- (c) “**Discipline Committee**” means
 - (i) an Investigation Committee, or
 - (ii) a Hearing Panel. (*EC18/13*)

STANDARDS

2. Standard of practice

- (1) A social worker shall practise social work in accordance with generally accepted standards of practice and procedures that are consistent with a combination of (a) the social worker’s professional training in social work;
 - (b) current professional theory as taught in recognized schools of social work and as reflected in professional journals and reports;
 - (c) customary practices in social work generally evident among social workers in Canada;
 - (d) such code of ethics as may be adopted by the Board; and
 - (e) such standards of practice as may be adopted by the Board.

Copies available for inspection

- (2) A copy of the code of ethics and standards of practice referred to in clauses (1)(d) and (e) shall be made available for public inspection during regular business hours in the office of the Registrar and shall be posted on the Board’s website. (*EC18/13*)

3. Unprofessional conduct

- (1) Pursuant to subclause 1(h)(v) of the Act, unprofessional conduct by a social worker includes:
- (a) acting in a conflict of interest as set out in subsection (2);
 - (b) attempting to work with a client when the social worker knows or ought to know that the client's problems are beyond the social worker's competence or expertise;
 - (c) failure to provide a client with timely and appropriate referrals;
 - (d) permitting, in circumstances within the social worker's control, a person who is not a social worker to perform the functions of a social worker, except where otherwise permitted under the Act;
 - (e) failing to maintain appropriate client records or compiling client records containing false or misleading information;
 - (f) engaging in the practice of social work while impaired by alcohol or drugs;
 - (g) failing to explain the purpose and expected results of a plan of intervention for a client;
 - (h) utilizing misleading advertising respecting the social worker's practice;
 - (i) utilizing research methods in social work which are not generally recognized in the profession in Canada;
 - (j) performing an act associated with social work practice that would generally be recognized by the profession as dishonourable or seriously offensive or harmful to a client;
 - (k) purporting to have a qualification or special expertise which the social worker does not in fact possess and which has not been recognized by the Board;
 - (l) failing to co-operate with an inquiry or investigation duly authorized by the Board;
 - (m) failing to comply with a decision of a Hearing Panel or a decision or an order of the Board;
 - (n) failing to abide by the terms and conditions of an agreement approved by the Board.

Conflict of interest

- (2) It is a conflict of interest for a social worker to be involved in a situation that,
- (a) results, through the professional practice of the social worker, in monetary or other personal gain other than that earned directly from the provision of social work services;
 - (b) results, through the professional practice of the social worker, in monetary gain for a person who referred a client to the social worker; or
 - (c) puts the professional integrity of or the rendering of professional services by the social worker at risk of being controlled by or detrimentally influenced by persons or factors other than the professional judgment of the social worker respecting the client. (EC18/13)

DISCIPLINE

4. Powers of Investigation Committee

An Investigation Committee may

- (a) determine its own procedures in an investigation;



- (b) make oral or written inquiries of any person who may have information relevant to the investigation;
- (c) interview the affected social worker;
- (d) require the affected social worker or any other social worker to produce for examination any documents, records or other materials that are in his or her possession or under his or her control that may be relevant to the investigation;
- (e) copy and keep copies of any documents, records or other materials produced under clause (d);
- (f) investigate any matter in addition to the complaint that arises in the course of the investigation and that may constitute unprofessional conduct; and
- (g) investigate multiple complaints concerning an affected social worker severally or in combination. *(EC18/13)*

5. Decision to include particulars

Where an Investigation Committee makes a decision pursuant to subsection 13.3(2) of the Act, the written copy of the decision required by subsection 13.3(3) of the Act shall set out the particulars of the allegations of unprofessional conduct against the affected social worker, whether alleged in the complaint or arising from an investigation. *(EC18/13)*

6. Final decision

If an affected social worker does not make a written request for a referral to the Hearing Panel pursuant to subsection 13.3(4) of the Act within the allotted time period, the decision of the Investigation Committee shall be final. *(EC18/13)*

7. Carriage of complaint

Where the Board appoints a Hearing Panel and refers a complaint to a Hearing Panel under subsection 13.3(5) of the Act, the Board shall appoint legal counsel to carry the complaint and adduce evidence at the hearing. *(EC18/13)*

8. Limit of review

Where an Investigation Committee reviews a complaint in accordance with clause 13.3(1)(b) of the Act, the Investigation Committee shall limit its review to a review of

- (a) the complaint;
- (b) any response made by the affected social worker regarding the complaint; and
- (c) the Registrar's reasons for the decision to dismiss the complaint. *(EC18/13)*

9. Quorum

The quorum of a Discipline Committee shall be a majority of its members. *(EC18/13)*

MEDIATION

10. Mediation

- (1) The Board shall not appoint any of the following persons as a mediator under subsection 13.1(1) of the Act:

- (a) the Registrar;
- (b) a member of the Board;
- (c) a member of a Discipline Committee.

Agreement

- (2) Where a mediator attempts to resolve a complaint in accordance with subsection 13.1(3) of the Act and the complainant and the affected social worker agree to a proposed resolution of the complaint, the mediator shall
- (a) ensure that the proposed resolution is recorded in a written agreement that
 - (i) includes all of the terms and conditions agreed to by the complainant and the affected social worker,
 - (ii) includes a deadline for the completion of any actions to be taken by the affected social worker, and
 - (iii) is signed by the complainant and the affected social worker; and
 - (b) submit the agreement referred to in clause (a) to the Board for approval.

Mediation agreement

- (3) An agreement may provide for the Board to
- (a) issue a written reprimand to the affected social worker;
 - (b) impose conditions on the certificate of the affected social worker;
 - (c) suspend the certificate of the affected social worker; or
 - (d) revoke the certificate of the affected social worker.

Approval or rejection of agreement

- (4) On receipt of an agreement submitted to the Board under clause (2)(b), the Board shall
- (a) approve or reject the proposed resolution in the agreement; and
 - (b) serve on the complainant, the affected social worker and the mediator
 - (i) written notice of the approval, or
 - (ii) written notice of and reasons for the rejection.

Order or action of Board

- (5) Where the Board approves the proposed resolution of a complaint in an agreement, the Board shall make any order or take any action required for the implementation of the resolution.

Copy of agreement provided to Registrar

- (6) The Board shall provide to the Registrar a copy of any agreement approved by the Board.

Mediation may continue

- (7) Subject to subsection 11(1), where the Board rejects the proposed resolution of a complaint in an agreement, the mediator may continue to attempt to resolve the complaint. *(EC18/13)*

11. Mediation not successful

- (1) Where a mediator attempts to resolve a complaint in accordance with subsection 13.1(3) of the Act and
- (a) the mediator concludes that mediation is not likely to be successful;
 - (b) the complainant or the affected social worker discontinues mediation; or



- (c) the complaint is not resolved through mediation within 60 days of the appointment of the mediator by the Board,

the mediator shall refer the complaint back to the Board and serve notice of and the reasons for the referral on the complainant and the affected social worker.

Referrals by Board

- (2) Where

- (a) a mediator refers a complaint back to the Board under subsection (1); or
- (b) an affected social worker fails to comply with the terms and conditions of an agreement approved by the Board

the Board shall

- (c) where the complaint was referred to the Board by the Registrar for the appointment of a mediator, refer the complaint to an Investigation Committee for investigation and a decision under clause 13.3(2)(a), (c) or (d) of the Act;
- (d) where the complaint was referred to the Board by an Investigation Committee, following a review of a dismissal, for the appointment of a mediator, refer the complaint back to the same Investigation Committee for investigation and a decision under clause 13.3(2)(a), (c) or (d) of the Act; or
- (e) where the complaint was referred to the Board by an Investigation Committee, following an investigation, for the appointment of a mediator, refer the complaint back to the same Investigation Committee for a decision under clause 13.3(2)(a), (c) or (d) of the Act.

Mediation confidential

- (3) Statements made by a mediator or a participant to mediation during a mediation process shall be confidential and evidence of or relating to such statements may not be used in any proceedings under the Act or any other Act or in any action, matter or proceeding before a court without the written consent of the affected social worker and the complainant.

Application

- (4) For greater certainty, subsection (3) does not apply to the contents of an agreement approved by the Board in the investigation or hearing of a complaint alleging that the affected social worker failed to comply with the terms and conditions of such an agreement. *(EC18/13)*

HEARING

12. Procedures of Hearing Panel

- (1) Subject to section 13.4 of the Act and to these regulations a Hearing Panel may determine its own procedures at a hearing.

Powers of members of Hearing Panel

- (2) For the purpose of discharging the functions of a Hearing Panel, any member of a Hearing Panel may
 - (a) administer oaths;
 - (b) certify to official acts; and
 - (c) by subpoena, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and other evidence at a hearing.

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.

Retaining assistance

- (4) A Hearing Panel may retain any legal or other assistance that it considers necessary for the purposes of conducting a hearing.

Rules of evidence

- (5) Subject to subsection 13(3), a Hearing Panel is not bound by the strict rules of evidence or the provisions of the *Evidence Act*. (EC18/13)

13. Notice of hearing

- (1) A Hearing Panel shall, not less than 30 days before the date set for a hearing, serve written notice of the date, time, place and subject matter of the hearing on
- (a) the complainant;
 - (b) the affected social worker; and
 - (c) the legal counsel appointed under subsection 12(4).

Hearing open to public

- (2) A hearing shall be open to the public unless the Hearing Panel is of the opinion that the possibility of serious harm or injustice to any person justifies all or a portion of the hearing being conducted in camera.

Evidence

- (3) Evidence before the Hearing Panel may be given orally or by declaration under the *Evidence Act* (Canada) or the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11, provided that a true copy of any declaration to be so used, other than a declaration of service of any document, shall be served not less than ten days prior to the hearing on the other party or parties, as the case may be.

Disclosure

- (4) The legal counsel appointed under subsection 12(4) shall, not less than 10 days before the date set for a hearing, disclose to the affected social worker
- (a) all written or documentary evidence the legal counsel intends to present at the hearing; and
 - (b) the identity of each witness the legal counsel intends to call at the hearing and a summary of the evidence of each witness.

Adjournment

- (5) The Hearing Panel may, from time to time, adjourn a hearing and serve notice thereof on the affected social worker, the complainant and the legal counsel appointed under subsection 12(4).

Right to appear

- (6) An affected social worker has the right to appear, to be represented by legal counsel, and to examine, cross-examine and *re-examine* witnesses at a hearing.



Proceeding in absence

- (7) If the affected social worker fails to appear at the time and place appointed for a hearing or for the resumption of an adjourned hearing after notice has been served, the Hearing Panel may proceed with the hearing in the absence of the affected social worker.

Additional matters

- (8) The Hearing Panel may hear, in addition to any matter referred to it, any matter that arises in the course of its proceedings that may constitute unprofessional conduct on the part of the affected social worker.

Opportunity to respond

- (9) Where a Hearing Panel hears an additional matter referred to in subsection (8), the Hearing Panel shall give the affected social worker a reasonable opportunity to respond to the additional matter. *(EC18/13)*

14. Compliance with conditions

- (1) Where a Hearing Panel imposes conditions on the certificate of the affected social worker, under subclause 13.4(2)(b)(ii) of the Act, the affected social worker shall comply with the conditions.

Terms of suspension

- (2) Where a Hearing Panel suspends the certificate of an affected social worker, under subclause 13.4(2)(b)(iii) of the Act, the Hearing Panel shall specify the term of the suspension.

Term of revocation

- (3) Where a Hearing Panel revokes the certificate of an affected social worker, under subclause 13.4(2)(b)(iv) of the Act, the Hearing Panel shall specify the time period, if any, that must elapse before the affected social worker may apply for a new certificate. *(EC18/13)*

GENERAL

15. Records

Every social worker shall provide such records or other information to the Registrar, Investigation Committee or Hearing Panel as they may require in the course of a preliminary investigation, investigation or hearing, respectively. *(EC18/13)*

16. Report to Registrar

Every social worker shall report evidence of unprofessional conduct by another social worker to the Registrar. *(EC18/13)*

17. Confidentiality

- (1) Subject to section 13.6 of the Act, the confidentiality of information obtained in any investigation or hearing shall be maintained by all those with access to such information.

Release of information

- (2) Notwithstanding subsection (1), the Board may release information respecting complaints to social workers when, in the opinion of the Board, it is in the public interest to do so.

Retention of documents

- (3) The time period for retention of any documentation that is placed on an affected social worker's file under these regulations shall be in accordance with any policy established by the Board or in the discretion of Discipline Committees involved in a particular complaint.

Idem

- (4) Notwithstanding subsection (3), where a resolution to a complaint results in the affected social worker's registration being suspended or cancelled, or if conditions are imposed on the affected social worker's practice, the documentation placed on the affected social worker's file under these regulations shall be retained for a period of not less than ten years from the resolution of the complaint. *(EC18/13)*

18. Published information

- (1) The Board may compile and publish statistical information respecting social workers, professional services and their use and other information respecting the practice of social workers in the province, provided that clients are not identified without their consent.

Information to be provided

- (2) The Board may require social workers to provide information to it for the purposes of these regulations.

Provision of information

- (3) Upon request of the Board under subsection (2), social workers shall provide the information required to the Board. *(EC18/13)*

19. Revocation

The Standards and Discipline Regulations *(EC69/92)* are revoked. *(EC18/13)*

