



Midwifery
Regulatory Council
of Nova Scotia

Midwifery Regulatory Council of Nova Scotia

Professional Conduct Policy Manual

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Preamble

The Midwifery Regulatory Council of Nova Scotia (MRCNS) is the regulatory body for all midwives in Nova Scotia. MRCNS is responsible for regulating midwives in the public interest by ensuring safe and ethical practice in Nova Scotia.

A fair, robust and efficient professional conduct process is critical in ensuring that members of the public receive ethical and competent care from midwives, and is fundamental in achieving MRCNS's public protection mandate.

In this manual, the "professional conduct process" refers to the process of receiving, investigating, and appropriately disposing of or resolving complaints.

The purpose of the professional conduct process is to:

- investigate and evaluate complaints alleging professional misconduct, incompetence, conduct unbecoming, and incapacity;
- deal with complaints in a fair, thorough and timely manner; and
- determine the appropriate course of action with respect to those complaints.

Where possible and appropriate, the professional conduct process will attempt to rehabilitate the respondent and consider systemic issues which have contributed to a complaint.

In addition to the content of these Policies, the professional conduct process is subject to common law requirements including adherence to the principles of procedural fairness and natural justice. MRCNS, its agents, and its committees will act fairly and objectively in carrying out their duties.

Definitions

Complainant:	A person who has filed a complaint. If the complaint has been filed on behalf of an organization, the complainant will be the person representing the organization for the purposes of the professional conduct process.
Complaint:	A notification in writing to MRCNS indicating potential professional misconduct, conduct unbecoming, incompetence or incapacity by a registrant.
Conduct unbecoming:	Conduct in a registrant's personal or private capacity that tends to bring discredit upon the profession.
Incapacity:	The status whereby a registrant has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the registrant unable to practise with competence or that endangers or may have endangered the health or safety of clients.

- Incompetence: The display of a lack of knowledge, skill or judgment in the registrant's care of a client or delivery of midwifery services that, having regard to all of the circumstances, renders the registrant unsafe to practise at the time of such care of the client or delivery of midwifery services or that renders the registrant unsafe to continue in practice without remedial assistance.
- Professional misconduct: Such conduct, attitude or acts relevant to the profession that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and, without limiting the generality of the foregoing, may include:
- (a) failing to maintain the standards of midwifery practice,
 - (b) failing to uphold the code of ethics adopted by the Council,
 - (c) abusing a person verbally, physically, emotionally or sexually,
 - (d) misappropriating personal property, drugs or other property belonging to a client or a registrant's employer,
 - (e) inappropriately influencing a client to make or change a will or power of attorney,
 - (f) wrongfully abandoning a client,
 - (g) neglecting to provide care to a client,
 - (h) failing to exercise discretion in respect of the disclosure of confidential information,
 - (i) falsifying records,
 - (j) inappropriately using professional midwifery status for personal gain,
 - (k) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,
 - (l) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading,
 - (m) engaging or assisting in fraud, misrepresentation, deception or concealment of a material fact when applying for or securing registration or a licence to practise midwifery or taking any examination provided for in the *Act*, including using fraudulently procured credentials, or
 - (n) taking or using the designation "registered midwife", "midwife", or any derivation or abbreviation thereof, or describing the person's activities as "midwifery" in any advertisement or publication, including business cards, websites or signage, unless the referenced activity falls within the definition of the "practice of midwifery" in the *Act*.

Registrant: A person whose name is recorded in the Register.

Respondent: The registrant or former registrant against whom a complaint is filed.

General Principles

In these Policies:

- “Act” refers to the *Midwifery Act*, SNS 2006, c. 18.
- “Regulations” refers to the *Midwifery Regulations* made under s. 9 of the *Midwifery Act*.
- Any authority or function assigned to the Registrar in these Policies may be delegated to another individual by the Registrar pursuant to s. 14(4) of the *Act*.



Professional Conduct Policy # 1: Receipt of Complaint and Investigation

Introduction

This policy establishes the process to be followed upon the receipt and investigation of a complaint.

Procedure

1. A complaint may be initiated by:
 - a. an organization including a corporation or association;
 - b. the Registrar; or
 - c. any other person.

2. A complaint may be received by:
 - a. completion of an online form available on the MRCNS website;
 - b. written letter;
 - c. email correspondence;
 - d. verbal or audio/visual recorded communication to MRCNS, where providing a written complaint would present a barrier to the complainant. In such cases, the Registrar will ensure that the complaint is documented in a written format and approved by the complainant.

3. A termination letter from a registrant's employer notifying MRCNS that the registrant's employment as a midwife has been terminated because of professional misconduct, conduct unbecoming, incompetence or incapacity will constitute a complaint.

4. For the purposes of the professional conduct process, MRCNS retains jurisdiction over an individual who is no longer registered or licensed if the subject matter of the complaint relates to that individual's conduct while they were registered or licensed.
5. Upon receipt of a complaint, the Registrar will verify that MRCNS has jurisdiction over the subject of the complaint and will consider whether interim measures may be warranted pursuant to Policy #5: Interim Measures.
6. If the Registrar determines that MRCNS does not have jurisdiction over the subject of the complaint, the complainant will be notified in writing that the complaint cannot be processed. The complainant may be referred to another regulator if appropriate.
7. The Registrar or an investigator may contact the complainant to clarify the complaint, gather additional information, or review the professional conduct process.
8. After confirming that MRCNS has jurisdiction over the subject of the complaint, the Registrar will, within five (5) business days of receiving the complaint:
 - a. send an acknowledgement letter to the complainant and include such other information regarding the professional conduct process as is appropriate; and
 - b. send an acknowledgement letter to the respondent notifying them that a complaint has been received and include such other information regarding the professional conduct process as is appropriate, enclosing a copy of the complaint, and inviting the respondent to provide an initial response to the complaint in writing, within fifteen (15) days or such other time period deemed appropriate by the Registrar.
9. Based upon the complaint and the response obtained pursuant to paragraph 8(b), the Registrar will determine the appropriate procedural stream for the complaint:
 - a. Dismissal by the Registrar;
 - b. Informal resolution pursuant to Policy #2: Informal Resolutions;
 - c. Referral of the matter to the Fitness to Practise program pursuant to Professional Conduct Policy: Fitness to Practise; or
 - d. Further investigation.
10. The Registrar will dismiss the complaint pursuant to paragraph 9(a) and issue a written decision to the complainant and respondent explaining the reasons for the dismissal if the Registrar determines that:
 - a. the subject matter of the complaint is outside the jurisdiction of MRCNS;
 - b. the complaint is frivolous, vexatious or constitutes an abuse of process;
 - c. the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel or caution or both; or
 - d. the complaint cannot be substantiated.

11. If the Registrar determines that an informal resolution of the matter may be appropriate, the complaint may be dealt with in accordance with Policy #2: Informal Resolutions.
12. If the complaint involves the potential incapacity of a registrant, or an incapacity concern arises in the course of investigating the complaint, the Registrar may consider whether the respondent is eligible for the Fitness to Practise program and, where appropriate, deal with the matter in accordance with Professional Conduct Policy: Fitness to Practise.
13. Where the Registrar determines that further investigation is warranted, the Registrar may conduct the investigation or appoint an investigator. The Registrar or an investigator may:
 - a. request additional written or oral explanation from the complainant, the respondent or third parties; and/or
 - b. request an interview of the complainant, the respondent or third parties.
14. The Registrar or an investigator may investigate any matter relating to the respondent in addition to the complaint that arises in the course of the investigation that may constitute professional misconduct, conduct unbecoming, incompetence or incapacity.
15. The Registrar or an investigator may exercise the powers of a commissioner appointed under the *Public Inquiries Act* to compel the production of information, including by issuing a Notice to Produce and/or subpoena in an appropriate form.
16. In the course of an investigation, the Registrar may require a respondent to:
 - a. participate in a physical or mental examination by a qualified individual appointed by the Registrar;
 - b. submit to an inspection or practice audit by a qualified individual appointed by the Registrar;
 - c. participate in a competence assessment as directed by the Registrar (see [Professional Conduct Policy: Competence Assessment](#)); and/or
 - d. produce records and accounts kept with respect to the respondent's practice.
17. Where the Registrar has required the respondent to take any action pursuant to paragraph 16:
 - a. The cost of complying with the requirement will be the responsibility of MRCNS.
 - b. The Registrar will provide a copy of any assessment or audit report to the respondent and invite them to provide a response to the report within thirty (30) days or such other time period determined by the Registrar.
 - c. If the respondent fails to comply with the Registrar's direction pursuant to paragraph 16, the Registrar may suspend or restrict the respondent's registration or licence until the respondent complies.

18. Upon completion of an investigation, the Registrar or an investigator will prepare an investigation report which includes, where relevant, a copy of the letter of the complaint, a summary of the investigation, witness statements, and relevant documentary evidence.
19. The Registrar or an investigator will provide a copy of the investigation report to the respondent, who will be invited to respond to the report within 30 (thirty) days, or such other period as determined by the Registrar or investigator. The respondent may be invited to respond in writing or verbally. If the respondent chooses to respond verbally, the Registrar or investigator may document the response in writing.
20. As soon as practical after receiving the respondent's response to the investigation report (if any), the Registrar will consider the matter and deal with the complaint pursuant to Policy #3: Complaint Outcome.
21. In the professional conduct process the respondent has the right to:
 - a. be represented by legal counsel or another representative, at the respondent's own expense;
 - b. notice of any matters under investigation and disclosure of any material reviewed by the Registrar in determining an outcome;
 - c. a reasonable opportunity to present a response and make submissions in such form as determined by the Registrar; and
 - d. such other information as natural justice requires.

Communication Timelines

22. The Registrar will endeavour to communicate in writing with the relevant parties regarding the status of the professional conduct process in accordance with the following timelines:
 - a. Acknowledge receipt of the complaint with the complainant and respondent:
 - i. Five (5) business days following receipt of complaint.
 - b. Send status updates to the complainant and respondent:
 - i. Sixty (60) days following the commencement of the investigation and every sixty (60) days thereafter while the investigation is ongoing.
 - c. Provide a copy of the Registrar's written decision to the complainant and respondent:
 - i. Five (5) business days following preparation of the final written decision.
23. The timelines set out in paragraph 22 are general targets subject to the specific circumstances of each complaint. Where a different timeline is specified in the *Act*, the *Regulations*, or these Policies, that timeline will apply.



Professional Conduct Policy # 2: Informal Resolutions

Introduction

The Registrar may attempt to informally resolve a complaint in the interests of the respondent, the complainant, the public and MRCNS.

While the consent of the complainant is not required to informally resolve the matter, complainant feedback may be a factor in determining the suitability and terms of an informal resolution.

The Registrar may delegate the informal resolution of a matter to another individual, including an investigator or legal counsel.

Procedure

1. The Registrar may assess a complaint using the Informal Resolution Decision-Making Tool attached as Appendix A.
2. If the assessment determines that an informal resolution:
 - a. may be appropriate, the Registrar may discuss possible options for resolution with the respondent (with complainant feedback where appropriate); or
 - b. is not appropriate, the Registrar may conduct further investigation of the matter and deal with the complaint pursuant to Policy #1: Receipt of Complaint and Investigation.
3. At any point during the negotiation process, the Registrar may attempt to obtain any additional information required to satisfy themselves that the resolution is appropriate.
4. If the Registrar and the respondent:

- a. agree on the terms of an informal resolution, the terms will be set out in a written agreement and confirmed by the respondent; or
 - b. cannot reach an agreement on the terms of an informal resolution, the Registrar may conduct further investigation of the matter and deal with the complaint pursuant to Policy #1: Receipt of Complaint and Investigation. Any documents or other information gathered during the resolution process may be available for use in any subsequent regulatory process.
5. Written informal resolution agreements will include, at a minimum:
 - a. a summary of the complaint and other relevant information obtained to date;
 - b. the agreed-upon remedial terms (if any);
 - c. publication and notification requirements (if any); and
 - d. confirmation of acceptance by the respondent by signature or electronic means.
 6. Where necessary, the content of an approved informal resolution agreement will be monitored by the Registrar for successful completion.
 7. If a respondent breaches an approved informal resolution agreement, this may be considered professional misconduct and may result in the filing of a new complaint by the Registrar.
 8. If a respondent has not breached the informal resolution agreement but is otherwise unsuccessful in completing the terms of the agreement, the matter may be dealt with as set out in the agreement or the Registrar may attempt to negotiate a new agreement consistent with this Policy.
 9. Informal resolutions will be included in the respondent's professional conduct history pursuant to Policy #4: Professional Conduct History.

Appendix A to Professional Conduct Policy #2:

Informal Resolution Decision-Making Tool

Step 1: Review the Conduct

- Did the conduct involve any of the following?
 - Physical, emotional or sexual abuse
 - Boundary violations with clients of a sexual or romantic nature
 - Intentional acts of harm
 - Breach of trust or abuse of power or fiduciary role
 - Financial abuse or theft
 - Misconduct that contributed to serious harm
 - If so Not appropriate for Informal Resolution Continue further investigation

Step 2: Review the Respondent

- Is the respondent an appropriate candidate for Informal Resolution? Consider the following factors:
 - Does the respondent demonstrate insight into their actions?
 - Does the respondent have a prior professional conduct history or a significant pattern of misconduct?
 - Does the allegation involve deception, dishonesty or motive concealment?
 - Has the respondent demonstrated a willingness to address the issues?
 - Has the respondent been cooperative in the professional conduct process?
 - Has the respondent expressed remorse?
 - Has the respondent made admissions?
 - Is there a low likelihood of the issues reoccurring?
 - Is the respondent ungovernable?
 - If the respondent is not an appropriate candidate Not appropriate for Informal Resolution Continue further investigation

Step 3: Review the Purpose of the Professional Conduct Process

- Is an Informal Resolution consistent with the objects of MRCNS and the professional conduct process? Consider whether in the circumstances an informal resolution would do the following:
 - Serve and protect the public interest?
 - Preserve the integrity of the profession?
 - Maintain public confidence in MRCNS's governance of the profession?
 - If an Informal Resolution is not consistent with the purpose of the professional conduct process Not appropriate for Informal Resolution Continue further investigation

Step 4: Determine the Appropriate Outcome

- If Steps 1-3 indicate that an Informal Resolution may be appropriate, then consider proposing and attempting to negotiate the content of the agreement with the respondent. The content of the agreement may include, but is not limited to:
 - Relevant education to address deficiencies in skills and knowledge
 - Practice consultations and/or professional guidance
 - Preceptoring/mentoring/auditing
 - A plan by the respondent to prevent similar problems in the future, including reference to the relevant professional standards/code of ethics
 - Requiring the respondent to make verifiable efforts to remediate systemic workplace issues
 - Reflective essay
 - Performance feedback (*e.g.*, performance evaluations, a report from a supervisor, *etc.*)
 - Expressions of remorse and/or apology
 - Treatment of relevant physical or mental health conditions (including a report from treatment providers)
 - Incorporation of an employer's action plan, if appropriate
 - Agreement to restrict practice with notification as appropriate
 - Publication/notification of the complaint allegations and/or resolution in whole or in part, as appropriate (*e.g.*, notification to other regulators; publication of a notice on the website, *etc.*)
 - Restitution
- If the respondent agrees to the proposed resolution □ Prepare a written agreement.
- If the respondent does not agree to the proposed resolution □ Continue further investigation.



Professional Conduct Policy # 3: Complaint Outcome

Introduction

The Registrar considers all complaints in an objective manner to determine an appropriate outcome consistent with the objects of MRCNS and the professional conduct process.

Other powers and functions of the Registrar not addressed in these Policies will be fulfilled as set out in the *Midwifery Act* and the *Regulations*.

Procedure

1. The Registrar retains jurisdiction over a matter until:
 - a. a hearing commences before a hearing panel;
 - b. a settlement proposal is accepted by a hearing panel; or
 - c. the Registrar makes a final disposition of the matter.
2. Upon considering the investigation report and the respondent's response pursuant to Policy #1: Receipt of Complaint and Investigation, the Registrar may do the following:
 - a. **dismiss** the complaint if the Registrar determines that:
 - i. the subject matter of the complaint is outside the jurisdiction of MRCNS;
 - ii. the complaint is frivolous, vexatious or constitutes an abuse of process;
 - iii. the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel or caution or both; or
 - iv. the complaint cannot be substantiated.
 - b. with the consent of both parties, refer the matter in whole or in part to **mediation**, and such an outcome is not considered a licensing sanction;
 - c. **informally resolve** the complaint, in which case the Registrar may consider the procedure set out in Policy #2: Informal Resolutions (and where the respondent may be incapacitated, an informal resolution may include addressing the matter through

- the Fitness to Practise program in accordance with Professional Conduct Policy: Fitness to Practise), and such an outcome is not considered a licensing sanction;
- d. **counsel** the respondent, if the Registrar determines that the respondent may not have breached the standards of professional ethics or practice, but may benefit from professional advice regarding the subject matter of the complaint, and such an outcome is not considered a licensing sanction;
 - e. **caution** the respondent, if the Registrar determines that the respondent may have breached the standards of professional ethics or practice, but in circumstances that do not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, and such an outcome is not considered a licensing sanction;
 - f. **counsel and caution** the respondent, and such an outcome is not considered a licensing sanction;
 - g. with the respondent's consent, order that the respondent receive a **reprimand**, if the Registrar determines that the respondent may have breached the standards of professional ethics or practice, in circumstances that may constitute professional misconduct, conduct unbecoming, incompetence or incapacity, and such an outcome is considered a licensing sanction;
 - h. with the respondent's consent, require the registrant to undergo such **treatment or re-education** as the Registrar considers necessary, if the Registrar determines that the respondent may have breached the standards of professional ethics or practice, in circumstances that may constitute professional misconduct, conduct unbecoming, incompetence or incapacity, and such an outcome is considered a licensing sanction; or
 - i. where a determination is made that the matter warrants a hearing, **refer the matter to a hearing panel**, in advance of which the Registrar may seek an opinion on the prosecutorial viability of the matter from legal counsel.
3. Where the Registrar is considering a decision to counsel, caution or counsel and caution the respondent pursuant to paragraphs 2(d), (e) or (f), the Registrar will give advance notice to the respondent and will give the respondent an opportunity to appear before the Registrar or to make written submissions to the Registrar within fifteen (15) days or such other time period determined by the Registrar, prior to issuing a decision.
 4. Where a respondent has consented to treatment or re-education in principle pursuant to paragraph 2(h), they reserve the right to appeal the actual content of the requirement to a hearing panel within fifteen (15) days of receiving notice of the content, and:
 - a. Parties to an appeal pursuant to this paragraph bear their own costs.
 - b. The appeal will be conducted without hearing testimony and the panel will review an agreed statement of facts entered into by MRCNS and the respondent.
 - c. If an agreed statement of facts is not filed within thirty (30) days of the appeal being filed, the respondent will be deemed to have withdrawn their consent and the matter will be referred back to the Registrar to consider an alternative outcome pursuant to paragraph 2.
 5. The Registrar's decision may include any combination of outcomes pursuant to paragraphs 2(d), (e), (f), (g), and (h), or another disposition that the Registrar considers appropriate consistent with the objects of MRCNS and the professional conduct process.

6. The Registrar will issue a written decision with reasons for the outcome pursuant to paragraph 2, and will provide a copy of the decision to:
 - a. the respondent; and
 - b. the complainant.

7. The written decision will include:
 - a. a summary of the complaint, response and any other relevant information obtained; and
 - b. reasons for the specific outcome, including:
 - i. if the complaint has been dismissed, the reasons for the dismissal;
 - ii. if the complaint has been successfully mediated, a summary of the outcome of the mediation;
 - iii. if the complaint has been informally resolved, the terms of the informal resolution and the reasons for its acceptance;
 - iv. if the respondent has been issued a counsel, the reasons why the specific conduct or action may not have been a breach of the standards of professional ethics or practice, and the professional advice that would benefit the respondent;
 - v. if the respondent has been issued a caution, an indication of the specific conduct or action which may have breached the standards of professional ethics or practice, and the reasons why such a breach may not constitute professional misconduct, conduct unbecoming, incompetence or incapacity;
 - vi. if the respondent has been issued a reprimand, an indication of the specific conduct or action which may have breached the standards of professional ethics or practice; the reasons why the breach may constitute professional misconduct, conduct unbecoming, incompetence or incapacity; and confirmation of the respondent's consent to the reprimand;
 - vii. if the respondent has been required to undergo treatment or re-education, an indication of the specific conduct or action which may have breached the standards of professional ethics or practice; the reasons why the breach may constitute professional misconduct, conduct unbecoming, incompetence or incapacity; the proposed content of the treatment or re-education; the reasons why the proposed content is believed to address the potential breaches identified; and confirmation of the respondent's consent to the treatment or re-education; and/or
 - viii. if the matter is referred to a hearing panel, an indication of the specific conduct or action which may have breached the standards of professional ethics or practice; the reasons why the breach may constitute professional misconduct, conduct unbecoming, incompetence or incapacity; and the reasons why the matter may warrant a hearing.

8. The Registrar may receive assistance in drafting the decision in an appropriate form; however, the decision and rationale must be that of the Registrar.

9. If the outcome does not constitute a licensing sanction, the decision will be distributed as set out in paragraph 6, and there will be no further publication of the outcome which

identifies the respondent, except where the terms of an approved informal resolution agreement pursuant to paragraph 2(c) permit broader notification and/or publication.

10. If the outcome does constitute a licensing sanction (*i.e.*, a reprimand issued pursuant to paragraph 2(g) or treatment or re-education required pursuant to paragraph 2(h)), in addition to the distribution set out in paragraph 6, the Registrar will provide notice of the outcome to all of the following:
 - a. midwifery regulatory authorities in other Canadian jurisdictions;
 - b. any midwifery regulatory authority or association in a jurisdiction outside of Canada, upon their request; and
 - c. any other individual or organization as directed by the Registrar, which may include publication of a summary of the decision on the MRCNS website (and any other publication determined by the Registrar) which includes the following:
 - i. the respondent's name and registration number;
 - ii. the date of the decision;
 - iii. relevant background information;
 - iv. allegations that were upheld by the Registrar;
 - v. whether the allegations amounted to professional misconduct, conduct unbecoming, incompetence or incapacity (but without including the specific nature of an incapacity); and
 - vi. the outcome consented to by the respondent.
11. Decisions of the Registrar issued pursuant to this Policy will be retained indefinitely by MRCNS. Other information obtained by the Registrar or an investigator pursuant to the professional conduct process will be retained as set out in these Policies or in accordance with any applicable MRCNS record retention policy.



Professional Conduct Policy #4: Professional Conduct History

Introduction

MRCNS will maintain a Professional Conduct History documenting all professional conduct processes regarding a registrant. The Professional Conduct History may be used in any subsequent regulatory process, including future complaint matters involving the registrant.

Procedure

1. MRCNS will maintain an ongoing Professional Conduct History specific to individual registrants for all complaints regarding that registrant received after the effective date of this Policy.
2. The Professional Conduct History will include the following:
 - a. the date of the complaint;
 - b. the relationship of the complainant to the respondent;
 - c. the nature of the complaint (*i.e.*, professional misconduct, incompetence, incapacity, conduct unbecoming) and a brief summary of the allegations; and
 - d. a procedural summary of the matter, including the outcome(s), date of the outcome(s), and if applicable, the outcome of any further reviews (*e.g.*, by a hearing panel).
3. Where the Registrar or an investigator prepares an investigation report pursuant to Policy #1: Receipt of Complaint and Investigation, and the respondent has an existing Professional Conduct History, a copy of the Professional Conduct History or a summary of the information it contains will be included in the investigation report.
4. The Professional Conduct History will not be published or otherwise publicly available but may be disclosed as follows:
 - a. in an investigation report pursuant to paragraph 3;

b. as permitted by the *Midwifery Act*, the *Regulations*, or these Policies; or
c. to comply with a legal requirement.

5. The Professional Conduct History will be retained indefinitely, or consistent with any applicable document retention policies.

6. In determining the appropriate outcome of a complaint, the Registrar may consider any information related to a registrant's previous participation in a regulatory process, even if that information does not appear in a formal Professional Conduct History pursuant to this Policy.



Professional Conduct Policy #5: Interim Measures

Introduction

Interim measures include temporary limitations or the suspension of a respondent's registration or licence pending or following the completion of an investigation, where such measures are required in the public interest.

This policy establishes when interim measures may be considered.

Procedure

1. At any time pending or following the completion of an investigation, the Registrar may consider whether it is in the public interest to impose interim measures because:
 - a. the Registrar has received reliable information that indicates that a respondent may be incompetent or may have committed professional misconduct or conduct unbecoming; and
 - b. there are reasonable and probable grounds to believe that intervention is required prior to the final disposition of the matter.
2. In considering whether interim measures are required, the Registrar may consider any relevant factors, including, but not limited to:
 - a. the seriousness of the respondent's alleged conduct;
 - b. the nature of the information;
 - c. the recency of the conduct;
 - d. whether there was a pattern of conduct;
 - e. the likelihood of the alleged conduct being repeated in the absence of interim measures; and
 - f. the potential impact of interim measures on the respondent.

3. If the Registrar determines that interim measures are required in the public interest, the Registrar may consider whether to seek an undertaking, or whether a temporary suspension or restrictions should be imposed on the respondent's registration or licence.
 - a. An undertaking may be considered in circumstances where the respondent's consent may be obtained expeditiously and there is no indication that the respondent may not comply with a voluntary agreement.
 - b. If it is determined that an undertaking is not appropriate for any reason, the Registrar may, without a hearing, immediately suspend or impose restrictions on the registration or licence of the respondent on a temporary basis.

4. If, pursuant to paragraph 3, the Registrar determines that it is appropriate to seek an undertaking from the respondent:
 - a. If time permits, the Registrar or an investigator may attempt to obtain additional information relevant to the matter.
 - b. The Registrar will determine what intervention is required to protect the public on an interim basis, which may include a full undertaking to refrain from practice, or specific restrictions or conditions on practice that are sufficient to address the immediate concerns raised by the allegations.
 - c. The Registrar or an investigator may initiate the process by contacting the respondent to:
 - i. disclose the complaint allegations and the nature of the public protection concerns;
 - ii. explain the extent of the proposed undertaking;
 - iii. explain that the undertaking may remain in effect until the disposition of the matter by the Registrar or a hearing panel;
 - iv. explain that an undertaking is a voluntary agreement with MRCNS not to engage in practise or to abide by certain restrictions or conditions;
 - v. explain that breaching the undertaking may be considered professional misconduct and may form the basis of an additional complaint;
 - vi. explain that the respondent may seek legal advice or other representation at their own expense; and
 - vii. explain that the request for an undertaking is time-sensitive and provide a date by which the respondent must respond to the request.
 - d. If the Registrar or an investigator is unable to make contact with the respondent within a reasonable period of time, the Registrar will consider the imposition of an interim suspension or restrictions on the respondent's registration or licence.
 - e. If the respondent consents to the undertaking, the Registrar will take such action (including notification) as is required by the terms of the undertaking.
 - f. If the respondent does not consent to the undertaking by the required date, and an extension has not been granted, the Registrar will forthwith consider the imposition of an interim suspension or restrictions on the respondent's registration or licence.

5. Where the Registrar is considering whether to impose interim measures pursuant to paragraphs 3(b), 4(d) or 4(f), and the Registrar determines that:
 - a. there is reliable information indicating that a respondent may be incompetent or may have committed professional misconduct or conduct unbecoming; and
 - b. there are reasonable and probable grounds to believe that intervention is required prior to the final disposition of the matter,

the Registrar may, in their discretion, suspend or restrict the respondent's registration or licence on a temporary basis.

6. In making a determination pursuant to paragraph 5, the Registrar will consider the following guidelines:
 - a. *Is there a prima facie case for the allegation?* Is there sufficient information which, if believed, establishes an immediate risk to clients, colleagues or other members of the public?
 - b. *Is the allegation manifestly unfounded or manifestly exaggerated?* Is the risk of harm real and not merely speculative? The Registrar should provisionally assess the facts and consider the reliability of the evidence, internal and external consistency, the plausibility of the complaint, and the motivation of the complainant.
 - c. *Is interim action in the public interest?* Is the immediate risk of harm such that an interim order is necessary to protect clients, colleagues or other members of the public during the interim period? The Registrar should consider the seriousness of the risk if the respondent were allowed to continue in unrestricted practice. Interim action is an extraordinary measure and should be invoked sparingly in light of the consequences to the respondent. The Registrar should also take into account the impact which an interim order may have on the respondent and satisfy themselves that the consequences of the order are not disproportionate to the potential risk to the public.
 - d. *What kind of interim action is necessary?* The Registrar should consider whether interim restrictions would be sufficient and proportionate in order to protect the public and take into account the impact which an order may have on the respondent.
7. If the Registrar makes a decision pursuant to paragraph 5, the respondent will receive a written decision with reasons forthwith. The Registrar will also consider whether any aspects of the decision should be provided to other affected individuals (including the complainant); other regulatory bodies; any past, present or intended employer of the respondent; and the public, except that any personal information or personal health information disclosed will be limited to the minimum amount necessary to accomplish the purpose for which the information is disclosed.
8. The Registrar will advise the respondent that within 30 days of receiving the written decision, the respondent may request, in writing, an opportunity to meet with the Registrar.
9. Where the respondent requests a meeting with the Registrar as described in paragraph 8, the Registrar will:
 - a. provide an opportunity for the respondent to meet with the Registrar within ten (10) days of receiving the request;
 - b. after meeting with the respondent, confirm, vary or terminate the suspension or restrictions; and
 - c. issue a written decision with reasons forthwith for the decision made pursuant to paragraph 9(b).
10. Where a meeting is held pursuant to paragraph 9, the respondent has a right to:
 - a. be represented by legal counsel or another representative at the respondent's own expense;

- b. disclosure of the complaint and any investigation report or other material reviewed by the Registrar; and
 - c. a reasonable opportunity to present a response and make submissions.
11. The Registrar may allow a respondent request a termination of interim measures upon such conditions and at such time as determined by the Registrar.
12. Where the Registrar has imposed an interim suspension or restrictions, the Registrar will refer the matter directly to a hearing panel upon the respondent's request, and, in any event, if an interim suspension or restrictions remain in effect upon the conclusion of the investigation, a hearing panel will be appointed to determine the final outcome of the matter.



Professional Conduct Policy #6: Confidentiality and Disclosure

Introduction

Information obtained in the course of the professional conduct process should be treated as confidential and only be disclosed as permitted by the *Midwifery Act*, the *Regulations*, as required by law, to conduct a thorough and fair investigation, or as warranted by a compelling public interest consideration.

Procedure

1. No individual (including but not limited to MRCNS staff, panel members, investigators, the complainant, the respondent, and witnesses) who receives or has knowledge of information as a result of the professional conduct process should publish, release or disclose that information, and will maintain the confidentiality of that information, except:
 - a. as permitted by the *Regulated Health Professions Network Act*;
 - b. as permitted by the *Midwifery Act* or the *Regulations*;
 - c. in the course of participating in the professional conduct process, to:
 - i. the Registrar;
 - ii. an investigator;
 - iii. legal counsel for MRCNS;
 - iv. legal counsel or other representative for the respondent; or
 - v. the individual's own legal counsel or healthcare provider;
 - d. if the Registrar or a participant in the professional conduct process has a concern about the health or safety of the public or an identifiable member of the public (including a respondent), the Registrar or the participant may disclose to those persons any information as is necessary to protect the health or safety of the public or an identifiable member of the public;
 - e. if the information is otherwise publicly available;
 - f. as required by law; or
 - g. with the consent of the person to whom the information relates.

2. Notwithstanding paragraph 1, the Registrar may disclose such information:
 - a. as set out in an approved informal resolution agreement or written decision of the Registrar related to a complaint; and
 - b. to specific individuals or organizations, consistent with the objects of MRCNS and in the public interest.
3. In the course of performing their duties, the Registrar or an investigator may disclose such information to participants in the professional conduct process as is reasonably necessary to conduct an investigation.
4. The disclosure of confidential information pursuant to paragraphs 2 and 3 will be limited to the minimum amount of information necessary to achieve the purpose for which it is disclosed, at the discretion of the Registrar or investigator.

Approved by the MRCNS on September 1, 2025