

Proposed New Act as of July, 2014

# **An Act to Regulate the Practice of Social Work**

## **Short title**

1 This Act may be cited as the Social Workers Act.

## **Interpretation**

2 In this Act,

"approved social work education program" means those education programs approved by Council, as set out in the By-laws;

"by-law" means a by-law of the College;

"civil proceedings" means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or a commission of inquiry;

"client" means the individual, family, group, organization or community who is the recipient of social work services and, where the context requires, includes a substitute decision maker for the recipient of social work services;

"Code of Ethics" means the code of ethics as adopted pursuant to this Act;

"College" means the Nova Scotia College of Social Workers continued by this Act;

"competence" means the ability to integrate and apply the knowledge, theory, skills, judgment and values required to practise safely and ethically in a designated role and practice setting and includes both entry level and continuing competencies;

"complaint" means a formal notice to the College indicating possible professional misconduct, conduct unbecoming the profession, incompetence, or incapacity of a social worker or former social worker;

"Complaints Committee" means the Complaints Committee appointed pursuant to this Act;

"continuing competence" means the ongoing ability of a social worker to integrate and apply the knowledge, theory, skills, judgment and values required to practice safely and ethically in a designated role and setting;

"continuing competence requirements" means those requirements approved by Council that promote the maintenance and enhancement of the continuing competence of social workers;

"Council" means the Council of the College;

“counselling” means the application of professional social work knowledge, theory, skills, judgment and values by social workers, within a professional social work relationship with clients, in order to assess client needs and to assist clients in learning how to solve problems and make decisions about personal, social, educational, vocational, financial and inter-personal concerns;

“court” means the Supreme Court of Nova Scotia;

“electronic means” means the use of telephone, fax, television, video-conferencing, internet, intranet or any form of electronic or computerized communication;

“entry-level competencies” means the integrated knowledge, theory, skills, judgment and values expected and required of applicants who engage in the practice of social work;

“Executive Director” means the Executive Director of the College appointed pursuant to this Act;

“former Act” means the *Social Workers Act*, S.N.S. 1993, c.12, as amended;

"hearing" means a process before the Professional Conduct Committee following the issuance of a notice of hearing, where the parties lead evidence and make submissions to the Professional Conduct Committee, but does not include the consideration by the Professional Conduct Committee of a settlement proposal or an application for consent revocation, and does not include any hearing or any proceeding before the Complaints Committee;

“human-services programs” means programs and activities designed to enhance clients’ development and well-being, including providing economic and social assistance for those unable to provide for their own needs;

"individual scope of practice" means the roles and functions that an individual is educated, authorized and competent to perform;

"investigator" means a person designated by the Executive Director to conduct or supervise an investigation into a complaint;

"judge" means a judge of the Supreme Court of Nova Scotia;

"licence to practise social work" means a licence issued in accordance with this Act and the Regulations that authorizes a member to engage in the practice of social work, and that may be subject to conditions or restrictions as set out in this Act and the Regulations, and “licence” has the same meaning;

"licensing sanction" means

- (i) the imposition of conditions or restrictions on a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction,
- (ii) a consent reprimand ordered by the Complaints Committee or its equivalent from another jurisdiction,
- (iii) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction,

(iv) a suspension of a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction, and

(v) a revocation of registration or licence by the Professional Conduct Committee or its equivalent from another jurisdiction;

but does not include any disposition achieved through an informal resolution of the Complaints Committee or the Professional Conduct Committee, unless the informal resolution includes conditions or restrictions on a licence;

"member" means a person who holds a licence to practice social work;

"party" means the College or a respondent, as the context requires;

"practice" means the practice of social work;

"prescribed fees" means application, registration, renewal, private practice and such other fees as determined by Council;

"profession" means the profession of social work;

"Professional Conduct Committee" means the Professional Conduct Committee appointed pursuant to this Act;

"professional conduct process" means the processes described in Part III and in the "Professional Conduct" part of the Regulations;

"professional corporation" means one or more social workers incorporated in accordance with this Act and Regulations for the purpose of engaging in the practice of social work;

"public representative" means a member of Council or of a committee who is not a member of the College;

"Register" means the Register established pursuant to this Act;

"registration" means the process by which applicants for membership have their names initially entered on the Register and a licence issued;

"Registration Appeal Committee" means the Registration Appeal Committee appointed pursuant to this Act;

"Registration Committee" means the Registration Committee appointed pursuant to this Act;

"registration examination" means such examination or examinations as may be approved from time to time by Council in the by-laws as a prerequisite for qualification as a social worker;

"regulations" means the regulations made pursuant to this Act;

"respondent" means the person who is the subject of a complaint or the subject of an appeal pursuant to section 14;

"scope of practice of the profession" means the roles, functions, and activities included in the practice of social work;

"settlement proposal" means a proposal for the settlement of a complaint as prescribed in the regulations;

"social work" means the application of social work knowledge, theory, skills, judgment and values as taught in an approved social work education program, in the provision of professional services to clients, and includes but is not limited to

- (i) intervention through direct contact with clients, including assessment, case management, client-centred advocacy, education, consultation, counselling, crisis intervention and referral;
- (ii) community development based on the principles of social justice which aim to engage people to mobilize their skills to effect change in their own communities through the use of such approaches as community capacity building and community based participation research;
- (iii) provision of direct or indirect benefit to clients through administrative, educational, policy or research services including:
  - (a) the development and promotion of social policies aimed at improving social conditions and promoting social justice;
  - (b) the development and administration of programs that provide social work services;
  - (c) the supervision of individuals who provide social work services to clients; and
- (iv) such other activities as may be provided for by Regulation.

"social work student" means a student enrolled in an approved social work education program;

"social worker" means a person whose name appears on the Register and who is licensed to practice social work;

"standards of practice of social work" means the minimal professional practice expectations for any social worker in any setting or role, approved by Council or otherwise inherent in the profession of social work;

"supervision" means the professional relationship between a supervisor and a social worker or social work student in which the supervisor provides evaluation and direction of the services provided by the social worker to promote competent and ethical services to clients through the continuing development of the social worker or social work student's knowledge and application of accepted professional social work knowledge, theory, skills, judgment and values;

PART I  
COLLEGE

**College continued**

3 (1) The Nova Scotia Association of Social Workers continued by the former Act is hereby continued as a body corporate under the name Nova Scotia College of Social Workers, and is composed of its members.

(2) All assets, property and liabilities held by the Nova Scotia Association of Social Workers become the assets, property and liabilities of the College at the time of the coming into force of this Act.

(3) The College has perpetual succession and a common seal, with power to acquire, hold, lease, mortgage and otherwise dispose of real and personal property, and may sue and be sued.

**Objects**

4 In order to

(a) serve and protect the public interest;

(b) preserve the integrity of the profession of social work; and

(c) maintain public confidence in the ability of the profession of social work to regulate itself,

the College shall

(d) regulate the practice of social work through

(i) the registration, licensing, professional conduct and other processes set out in this Act and the Regulations,

(ii) the approval and promotion of a code of ethics,

(iii) the development, approval and promotion of standards of practice, entry-level competencies, and continuing competence requirements;

(e) subject to clause (a) to (d), and in the public interest, advance and promote the profession of social work;

(f) encourage members to participate in affairs promoting the practice of social work, in the best interests of the public;

(g) advocate for the development, enhancement and promotion of social policies aimed at improving social conditions and promoting social justice; and

(h) do such other lawful acts and things as are incidental to the attainment of the purpose and objects of the College.

### **Powers and composition of Council**

5 (1) The Council shall govern the College and may take any action consistent with this Act and the Regulations that it considers necessary for the promotion, protection, interest or welfare of the College, including

- (a) the setting of fees payable by applicants and members;
  - (b) approving the processes for establishing, revising and monitoring the annual budget;
  - (c) submitting to each annual general meeting of the College a financial statement of the College's operations for the past fiscal year; and
  - (d) approving proposed changes to this Act, the Regulations and the by-laws.
- (2) Council may take any action consistent with this Act by resolution.
- (3) The Council shall be composed of such number of persons as determined by the by-laws.
- (4) Notwithstanding subsection (3), the number of public representatives on the Council must be not less than twenty-five per cent of the total number of persons on the Council.
- (5) Persons on the Council must be elected or appointed or succeed to office in the manner prescribed by the by-laws.
- (6) Notwithstanding subsection (4), a majority of the Council constitutes a quorum.
- (7) Notwithstanding subsections (4) and (5), public representatives on Council continue to hold office until their successors are appointed or until such time as they are re-appointed.

### **Executive Director**

6 (1) The Council shall appoint an Executive Director of the College and the Council shall determine the term of office and the duties of the Executive Director.

- (2) The Executive Director may delegate any functions assigned to the Executive Director by this Act, the Regulations or the by-laws.
- (3) The Executive Director must be or must be eligible to be a member of the College.
- (4) The Executive Director is an ex officio member of the Council.

### **Regulations**

7 (1) Subject to the approval of the Governor in Council, the Council may make regulations

- (a) regulating the registration, licensing, discipline and re-instatement of members as social workers;
- (b) respecting the investigation and resolution of complaints;

- (c) respecting the continuing competence requirements and the ability to limit the duration of a licence to practise for non-compliance with the continuing competence requirements;
  - (d) respecting the verification of members' compliance with the continuing competence requirements;
  - (e) prescribing the conditions for the entry on the register and for the issuing of a licence;
  - (f) respecting the information to be included on the Register;
  - (g) allowing for an award of costs on a solicitor-client or other basis;
  - (h) providing that the licence of a member be suspended without notice or investigation upon contravention of any requirement to pay a fee, to file a document or do any other act by a specified or ascertainable date and providing for the re-instatement of a licence so suspended upon payment of such fee as determined by the Council;
  - (i) respecting the authority of the Executive Director, the Complaints Committee and the Professional Conduct Committee to impose a fine where members have engaged in the practice of social work while not holding a current licence to practise;
  - (j) respecting the reporting and publication of decisions in disciplinary matters;
  - (k) providing for the audits of some or all persons who hold a licence to practise social work and the person's practice environments;
  - (l) prescribing legislation pursuant to section 36, the violation of which may require a member to attend a hearing;
  - (m) prescribing the requirements and processes for incorporation of social workers;
  - (n) prescribing requirements for the practice of designated aspects of social work, which may include the education and experience required in order for a member to engage in those designated aspects of practice;
  - (o) defining any word or expression used but not defined in this Act;
  - (p) further defining any word or expression defined in this Act;
  - (q) governing such other matters as the Council considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.
- (2) The exercise by the Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

### **By-laws**

8 (1) The Council may make by-laws not inconsistent with this Act

- (a) respecting the holding of the annual general meeting and special meetings of the College, including the notice for such meetings, the content of such meetings, the quorum, the procedures to be followed and the manner of voting;

- (b) respecting fees and expenses payable to persons sitting on the Council and any other committees established for the purpose of attending to the business of the College;
- (c) establishing committees not otherwise established under the Act, including their composition and duties, quorum, and the holding and conduct of meetings of such committees ;
- (d) establishing the composition and number of Council members, and the eligibility for election or appointment to Council;
- (e) establishing the timing and manner of the election or appointment to Council;
- (f) respecting the terms of office of the persons sitting on the Council, the manner in which vacancies on the Council may be filled and the manner of removing Council members;
- (g) prescribing the manner in which resolutions are forwarded to Council;
- (h) prescribing the roles of the Officers of the College;
- (i) respecting the holding of Council meetings, including required meetings, the notice for such meetings, the quorum and procedure to be followed and the manner of voting;
- (j) approving and regulating examinations from time to time and other matters that are a prerequisite to qualifying an individual as a registered social worker;
- (k) prescribing the approved social work education programs;
- (l) creating categories of affiliation with the College, and prescribing the rights, privileges, qualifications and obligations of the persons in those categories and prescribing the conditions for entry and maintenance of a person's name in those categories;
- (m) designating titles and abbreviations of titles that may be used by members who have met the education and experience qualifications approved by Council in order to engage in those designated aspects of the practice of social work as are set out in the by-laws;
- (n) respecting the seal of the College;
- (o) respecting the location of the head office of the College;
- (p) approving the Code of Ethics, standards of practice, and entry-level competencies;
- (q) respecting the type of professional liability insurance or other form of malpractice coverage or liability protection a member must hold;
- (r) providing for the establishment of local branches of the College in any city, town, or other locality in the Province;
- (s) prescribing tasks authorized to be performed under the supervision of a social worker and the degree of supervision required;
- (t) respecting all other things necessary for the administration of the affairs of the College.



(2) The by-laws made pursuant to subsection (1) shall be made by resolution of the members of the Council present at a meeting of the Council of which notice of the intention to make the by-laws has been given.

## PART II

### REGISTRATION AND LICENSING

#### **Register**

9 (1) The Council shall cause to be kept a Register in which the names of those persons who qualify for registration according to this Act and the regulations are recorded.

(2) The Register shall include the information required by the Regulations.

(3) The Council shall also cause to be kept a record available to the public which shall include the information required by the Regulations.

#### **Registration**

10(1) The Executive Director shall register a person who meets the requirements for registration as set out in the Regulations.

(2) Notwithstanding any provision of the Act or the Regulations, the name of every person who, at the coming into force of this Act, is registered on any Register pursuant to the former Act, shall be entered into the Register under this Act, but continues under any conditions or restrictions attached to the person's previous registration.

11 (1) The Executive Director shall issue a licence to a person who meets the criteria for the licence as set out in the Regulations.

(2) Conditions or restrictions may be imposed on the licence of a member in such manner as set out in the Regulations.

#### **Written reasons for refusal**

12 Where an applicant:

(a) has been refused registration;

(b) has been refused a licence, or

(c) has terms and conditions imposed without the consent of the applicant,

the Executive Director shall give written reasons for such decision and advise the applicant of the review process set out in the Regulations.

### **Registration Committee and Registration Appeal Committee**

13 (1) The Council shall appoint a Registration Committee and a Registration Appeal Committee, the membership of each of which shall be set out in the Regulations.

(2) The Executive Director, the Registration Committee and the Registration Appeal Committee shall perform such registration and licensing functions, and have such authority as set out in this Act, the Regulations and the By-laws.

(3) Subject to subsection (4) the Executive Director, the Registration Committee and the Registration Appeal Committee have all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*. with the exception of the powers of contempt, arrest and imprisonment.

(4) The authority under the *Public Inquiries Act* can only be exercised with the approval of the chair of the Registration Committee, or the chair of the Registration Appeal Committee, as applicable.

### **Prohibitions**

14 (1) Subject to subsection (2), no person shall engage in the practice of social work in the Province unless

(a) that person's name is entered in the Register and that person is the holder of a licence issued under the Regulations that authorizes the member to engage in practice;

(b) that person is a student enrolled in an approved social work education program and is authorized by the administrators of that program to engage in the practice of social work as part of that program; or

(c) that person is permitted to engage in the practice of social work as otherwise provided in this Act or the Regulations.

(2) No person shall engage in those aspects of social work designated in the By-laws as requiring additional education or experience, unless that person has been authorized to engage in those designated aspects of social work in accordance with the process set out in the By-laws.

### **Restrictions on practice**

15 (1) No social worker shall engage in the practice of social work that falls outside that social worker's individual scope of practice.

(2) Unless otherwise authorized pursuant to this Act, the Regulations or any other law, no social worker shall practice outside the scope of practice of the profession.

(3) No social worker shall engage in the practice of social work that falls outside the terms of the licence issued to the social worker.

## **Protected Titles**

16 (1) Subject to the Regulations, no person shall take or use the designation “registered social worker”, “social worker”, “licensed social worker”, “RSW” in the Province, “LSW”, or any derivation or abbreviation thereof, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to practice as a social worker, unless that person is registered pursuant to this Act and is the holder of a licence that authorizes the use of such titles.

(2) In any advertisement or publication, including business cards, websites, or signage, no person shall take or use the designation “registered social worker”, “social worker”, “licensed social worker”, “RSW”, “LSW”, or any derivation or abbreviation thereof, or shall describe the person’s activities as “social work” unless the referenced activity falls within the definition of “practice of social work” pursuant to this Act.

## **Practice inside and outside Province**

17 For the purpose of this Act and the Regulations,

(a) a member in the Province who is engaged in practice by electronic means to clients outside of the Province is deemed to be practising the profession in the Province;

(b) a person, other than a member, who resides outside of the Province and who engages in practice by electronic means to clients within the Province is not deemed to be practising the profession in the Province if the person is licensed and insured pursuant to a statute of the other jurisdiction;

(c) a person, other than a member, who resides outside of the Province and who engages in practice by electronic means to clients within the Province, while not holding a licence in the other jurisdiction, is deemed to be practising the profession in the Province; and

(d) nothing in this Act prohibits the practice of the profession in the Province or the recovery of fees or compensation for professional services rendered as a social worker by a person registered in another country, state, territory or province and whose engagement requires that person to accompany and temporarily provide service for a client during the period of the engagement, if that person does not represent or hold himself or herself out as a person registered pursuant to this Act.

## **Restrictions on action to collect fees**

18 Subject to clause 17(d), no person shall bring an action in any court to collect fees, compensation or other remuneration for services performed as a social worker, unless that person was the holder of a licence to practise at the time the services were performed.

## **Prima facie proof**

19 A statement certified under the hand of the Executive Director respecting the membership on the Registrar is admissible in evidence as prima facie proof of that person's membership in the College.

### **Annotation of Register**

20 The Executive Director shall annotate the Register as provided in the Regulations.

### **Removal of name from Register**

21 (1) The Executive Director shall cause the removal of the name of a member from the register as provided in the Regulations.

(2) The name of a person removed from the register pursuant to subsection (1) must be restored as provided in the Regulations.

### **Requirement for current licence**

22 (1) Every person, other than a client, who employs a person in the practice of social work and every agency or registry that procures employment for a person in the practice of social work shall ensure that the person, at the time of employment and each year employed thereafter, holds a current licence to practice social work.

(2) Every person other than a client who employs an incorporated entity engaged in the practice of social work and every agency or registry that procures employment for an incorporated entity in the practice of social work shall comply with the provisions of subsection (1) with respect to each social worker who is in the employ of the incorporated entity.

### **Notice of disciplinary findings or complaints**

23 (1) A member who engages in the practice of social work outside the Province, who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province, shall not engage in the practice of social work on the member's return to the Province before providing the Executive Director with notice of such disciplinary findings or complaints and receiving notice from the Executive Director that the member is authorized to resume the practice of social work in the Province.

(2) Where the Executive Director receives notice pursuant to subsection (1), the Executive Director may file a complaint.

### **Offences and penalties**

24 (1) Every person who

(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the Regulations;

(b) engages in the practice of social work in the Province without complying with the Act;

(c) engages in the practice of social work in violation of any condition or limitation contained in the person's licence; or

(d) otherwise contravenes this Act or the Regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars or to imprisonment for a term of not more than six months, or to both.

- (2) The provisions of the *Summary Proceedings Act* apply in addition to any penalty otherwise provided for in this Act or the Regulations.
- (3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by the College belong to the College.
- (4) Any information to be laid pursuant to this Act or pursuant to the *Summary Proceedings Act* may be laid by the Executive Director or any person authorized by the Executive Director.
- (5) In a prosecution of an offence contrary to this Act or the Regulations, the onus to prove that a person accused of an offence has the right to practise social work, or that a person comes within any of the exemptions provided by this Act, is on the person accused.
- (6) Where a violation of this Act or the Regulations by a person or employer continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.
- (7) For the purpose of this Act or the Regulations, proof of the performance by a non-member of one act in the practice of social work is sufficient to establish that a person has engaged in the practice of social work.

### **Injunction**

- 25 (1) In the event of a threatened or continuing violation of this Act or the Regulations, the College may apply to a judge for an injunction to restrain the person from continuing or committing the violation and the judge, where the judge deems it to be just, may grant such an injunction.
- (2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the Regulations.
- (3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this section.

## **PART III**

### **PROFESSIONAL CONDUCT**

#### **Objects of process**

- 26 (1) In accordance with the objects of the College, the professional conduct process shall seek to inhibit professional misconduct, conduct unbecoming a social worker, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a social worker, incompetence or incapacity and, where appropriate, disposing of the matter or matters in accordance with the Regulations.

(2) Except where considered prejudicial to the attainment of the objects of the College, the professional conduct process must take into account the potential for the rehabilitation of the respondent.

### **Preservation of jurisdiction**

27 Where a person ceases to be registered or licensed for any reason, that person remains subject to the jurisdiction of the College for the purpose of the professional conduct process if the subject-matter of the professional conduct process arose out of the person's conduct while registered or licensed.

### **Complaints Committee**

28 (1) The Council shall appoint a Complaints Committee comprised of such number of members and non-members as determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Complaints Committee.

(3) The Vice-chair shall act as chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for the purpose of subsections (5), (6) and (7), the Council may, for such purposes, appoint a member of the Complaints Committee as chair of the Committee.

(5) The Chair of the Complaints Committee shall appoint a panel of three persons from the Committee, one of whom must be a public representative, to act as the Complaints Committee for purposes of the professional conduct process.

(6) The Chair of the Complaints Committee may sit on the panel and shall act as the chair of the panel in this event.

(7) Where the Chair of the Complaints Committee is not appointed to the panel, the Chair of the Complaints Committee shall appoint a chair for the panel.

(8) Two persons from the panel appointed pursuant to subsection (5), including at least one member, constitutes a quorum of the Complaints Committee.

(9) Failure of one or more Complaints Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes the members from waiving notice of meetings.

(10) All Complaints Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5).

(11) Where a proceeding is commenced before the Complaints Committee and the term of office of any person sitting on the Committee expires, that person may remain part of the Committee until the proceeding is concluded.

### **Initiation of complaints**

29 (1) A complaint may be initiated by

- (a) any body corporate or association;
- (b) the Executive Director;
- (c) a committee of the College; or
- (d) any other person.

(2) Where the College and the complainant agree, a complaint may be withdrawn.

### ***Public Inquiries Act Powers***

30 Members of the Complaints Committee, and any investigator appointed by the Executive Director, have all the powers conferred by this Act and the Regulations in the discharge of their functions as well as the powers, privileges, and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment.

### **Procedure and jurisdiction**

31(1) The Complaints Committee may set its own procedure for meetings.

(2) The Complaints Committee retains jurisdiction over a matter until such time as a hearing commences before the Professional Conduct Committee or the Professional Conduct Committee otherwise resolves the matter.

### **Complaint processed in accordance with regulations**

32 Upon receipt of a complaint, the complaint shall be processed in accordance with the Regulations.

### **Publication ban**

33 With respect to any decision issued by the Complaints Committee that is available to the public pursuant to this Act or the Regulations, the Committee may impose a publication ban on such portions of its decision as deemed necessary by the Committee.

### **Disposition of complaint**

34 (1) A complaint shall be disposed of in accordance with the Regulations.

(2) Where a complaint is forwarded to the Complaints Committee for disposition, the Committee shall give its decision in writing and shall send a copy of the written decision, by registered mail or personal service, to the respondent and the complainant and may send some or all of the written decision to such other persons as the Committee determines.

(3) In any matter before the Complaints Committee, a respondent has the right to be represented by legal counsel, a union representative or another representative at their own cost.

(4) Before the disposition of a matter by a Complaints Committee, a respondent has the right to:

- (a) receipt of:

- (i) disclosure of the complaint,
  - (ii) notice of any other matters that are under investigation;
  - (iii) such other information as natural justice requires; and
  - (iv) such other information as determined by the Registrar; and
- (b) a reasonable opportunity to present a response and make submissions.

### **Powers pending or following investigation**

35(1) The Complaints Committee, acting in good faith and in the public interest, may, at its discretion, direct the Executive Director to

- (a) suspend a licence to practise social work;
- (b) impose restrictions or conditions on a respondent's licence to practise social work;
- (c) where a person does not hold a current licence, suspend the ability of the person to obtain a licence,

pending or following the completion of an investigation and lasting until the suspension, restrictions or conditions are lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee, as the case may be.

(2) The member shall receive, forthwith, notice in writing, with reasons of a decision made pursuant to subsection (1).

(3) A member of the College who receives written notice pursuant to subsection (2) may request, in writing within thirty days, an opportunity to meet with the Complaints Committee.

(4) Where a request is received pursuant to subsection (3), the Complaints Committee shall

(a) provide an opportunity for the member of the College to meet with the Committee within ten days of the written request; and

(b) after meeting with the member, confirm, vary or terminate the suspension, restrictions or conditions imposed pursuant to subsection (1).

(5) Where a meeting is held pursuant to subsection (4), the member has the right to

(a) be represented by legal counsel, a union representative or another representative at the expense of the member;

(b) disclosure of the complaint; and

(c) a reasonable opportunity to present a response and make submissions.

(6) Where the Complaints Committee issues an interim suspension, conditions or restrictions on a respondent's licence to practise, the Committee shall provide a copy of the decision to the complainant and the respondent and shall determine whether any aspects of the Committee's



decision should be provided to other affected individuals, other social work jurisdictions, any past, present or intended employer of the respondent or the public.

### **Charges or other proceedings**

36 (1) Notwithstanding anything contained in this Act or the Regulations, where a person

(a) has been charged with, pleaded guilty to, been convicted or found to be guilty of any offence in or out of Canada for which a pardon has not been received, that is inconsistent with the proper professional behaviour of a member, including a conviction under

- (i) the Criminal Code (Canada);
- (ii) the Controlled Drug and Substances Act (Canada); or
- (iii) such other legislation relevant to the practice of social work;

(b) has been found guilty of a disciplinary finding in another jurisdiction;

(c) has had a licensing sanction imposed by another jurisdiction;

(d) is the subject of an investigation or disciplinary process in any jurisdiction; or

(e) has their named entered on the Child Abuse Register in the Province, or its equivalent in other jurisdictions,

and such person is a member or applies for registration or a licence or the renewal of a licence, the Executive Director may, by such notice as the Executive Director prescribes, require the person to attend a hearing before the Complaints Committee to fully disclose the facts and circumstances of the matters referred to in clauses (a) to (e).

(2) For purpose of a hearing pursuant to subsection (1), the Complaints Committee may take any of the actions authorized to be taken by the Committee pursuant to this Act or the Regulations.

(3) For the purpose of subsection (1), a certificate of conviction of a member is conclusive evidence that the member has committed the offence stated therein, unless it is proven that the conviction has been quashed or set aside.

(4) When a person holding a licence to practise social work meets the criteria pursuant to subsection (1), such person shall report the matter to the Executive Director immediately.

### **Duty to maintain confidentiality**

37 (1) All complaints received or under investigation, all information gathered in the course of the professional conduct process and all proceedings and decisions of the Complaints Committee and the Professional Conduct Committee that are not open to or available to the public in accordance with this Act or the Regulations must be kept confidential by the person or persons who possess such information.

(2) Notwithstanding subsection (1), where it is consistent with the objects of the College,

(a) the Executive Director, on the recommendation of the Complaints Committee or the Professional Conduct Committee, may disclose to law enforcement authorities any information about possible criminal activity on the part of a member that is obtained during an investigation pursuant to this Act;

(b) the Complaints Committee or the Professional Conduct Committee may authorize the Executive Director to release specific information to a specific person or persons;

(c) the Executive Director may disclose information with respect to the complaint to an extra-provincial social work regulatory body, or a regulatory body of another profession, if it is relevant and concerns the fitness of the member for membership in the regulatory body; and

(d) the Executive Director may disclose information with respect to a complaint for purposes of administration of this Act or to comply with the objects of the College.

### **Professional Conduct Committee**

38 (1) The Council shall appoint a Professional Conduct Committee comprised of such number of members and public representatives as determined by the Council.

(2) The Council shall appoint a Chair and a Vice-chair of the Professional Conduct Committee.

(3) The Vice-chair shall act as Chair in the absence of the Chair.

(4) Whenever for any reason neither the Chair nor the Vice-chair are available for purposes of subsections (5), (6) and (7), the Council may, for such purposes, appoint a member of the Professional Conduct Committee as chair of the Professional Conduct Committee.

(5) The Chair of the Professional Conduct Committee shall appoint a panel of a minimum of three persons from the Committee, at least one of whom shall be a public representative, to act as the Professional Conduct Committee for purposes of the professional conduct process.

(6) The Chair of the Professional Conduct Committee may sit on the panel and shall act as the Chair of the panel in this event.

(7) Where the Chair of the Professional Conduct Committee is not appointed to the panel, the Chair of the Professional Conduct Committee shall appoint a chair for such panel.

(8) Three persons from the panel appointed pursuant to subsection (5), including at least two members, constitutes a quorum of the Professional Conduct Committee.

(9) No person on the Professional Conduct Committee may concurrently serve on the Complaints Committee.

(10) Failure of one or more Professional Conduct Committee members to receive any notice of a meeting does not invalidate the proceedings at the meeting, and nothing precludes Committee members from waiving notice of meetings.

(11) All Professional Conduct Committee decisions require the vote of a majority of the panel of the Committee appointed pursuant to subsection (5) or the quorum of such panel in the event the full panel is not sitting.

(12) Where a proceeding is commenced before the Professional Conduct Committee and the term of office of any person sitting on the Committee expires, that person remains part of the Committee until the proceeding is concluded.

### **Hearing**

39 (1) Where the Complaints Committee refers a matter to the Professional Conduct Committee the Executive Director shall fix a date, time and place for holding a hearing, which shall commence not later than ninety days from the date of the referral by the Complaints Committee, or such later date as the respondent and the College may agree or the Chair of the Professional Conduct Committee may order following an opportunity for submissions from both parties as to such date.

(2) A notice of hearing, containing such information as required by the Regulations, shall be forwarded by the Executive Director to the respondent and the complainant at least thirty days prior to the hearing.

### **Service of documents**

40 At any stage of the professional conduct process, any document required to be served on or provided to a respondent or any other individual is deemed to be served or provided if

- (a) the intended recipient or their counsel acknowledges receipt of the document;
- (b) a registered mail receipt is provided from Canada Post;
- (c) an affidavit of service on the respondent is provided; or
- (d) the College provides evidence satisfactory to the Professional Conduct Committee that all reasonable efforts to effect service have been exhausted.

### **Settlement proposal**

41 Where the Complaints Committee refers a matter to the Professional Conduct Committee, the College, before the commencement of a hearing by the Professional Conduct Committee, may enter into a settlement proposal with the respondent, which proposal shall be dealt with in accordance with the Regulations.

### **Public Inquiries Act**

42 Each person on the Professional Conduct Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*, with exception of the powers of contempt, arrest and imprisonment.

### **Proceedings of Professional Conduct Committee**

43 (1) A proceeding held by the Professional Conduct Committee shall be conducted in accordance with the Regulations.

(2) In a proceeding before the Professional Conduct Committee, the parties have the right to

(a) be represented by legal counsel, a union representative or another representative at their cost;

(b) present evidence and make submissions, including the right to cross-examine witnesses; and

(c) receive written reasons for a decision within a reasonable time.

(3) Evidence is not admissible before the Professional Conduct Committee unless the opposing party has been given, at least ten days before a hearing,

(a) in the case of written or documentary evidence, an opportunity to examine the evidence;

(b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or

(c) in the case of evidence of any other witness, the identity of the witness.

(4) Notwithstanding subsection (3), the Professional Conduct Committee may, in its discretion, allow the introduction of evidence that would be otherwise inadmissible under subsection (3) and may make directions it considers necessary to ensure that a party is not prejudiced.

### **Disposition of matters**

44 (1) Where the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity, the Committee shall dispose of the matter or matters in accordance with the Regulations.

(2) Where the Professional Conduct Committee has revoked the registration of a member, the Committee shall determine whether the member is entitled to apply for re-instatement of registration or whether the revocation is final.

(3) Where the Professional Conduct Committee determines that a member whose registration has been revoked may apply for re-instatement, the Committee shall determine the time when the member may apply for re-instatement, which cannot be earlier than two years from the date of the Committee's decision.

### **Records and publication**

45 (1) Subject to any publication bans in existence, where a licensing sanction has been issued by the Complaints Committee or the Professional Conduct Committee, the Executive Director shall

(a) make such entries on the records of the College and on the licence of the member as set out in the Regulations;

(b) publish such information on the website of the College and in official publications of the College as set out in the Regulations;

(c) notify other social work licensing bodies as set out in the Regulations;

(d) provide such information to individuals or the public as set out in the Regulations.

(2) Where the Professional Conduct Committee dismisses a matter, it shall disclose its decision in such manner as it determines.

### **Expiry of suspension**

46 (1) Where the period of suspension of a member has expired, or the conditions imposed on the member have been satisfied, or the restrictions imposed on the member have been removed, the Executive Director shall restore the licence to practise social work to the member in the form it existed prior to the imposition of the suspension, conditions or restrictions, if the member otherwise meets the criteria for the issuing of a licence, but where the licence has expired, the member shall pay the prescribed fee for renewal of the licence before its re-issue.

(2) Where action has been taken pursuant to subsection (1),

(a) the Executive Director shall make the appropriate entries in the records of the College;

(b) where registering bodies in other Canadian social work jurisdictions had previously been informed of the suspension, conditions or restrictions, the Executive Director shall notify such registering bodies of the lifting of such suspension, conditions or restrictions; and

(c) the Executive Director shall notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions.

### **Power to retain assistance**

47 (1) For the purpose of the execution of their duties under this Act, the College or any committee of the College, may retain such legal or other assistance as the College or the committee may think necessary or proper.

(2) Where authorized by this Act or the Regulations, the costs of such legal or other assistance may be included, in whole or in part, as costs ordered by the committee.

### **Appeal on point of law**

48 (1) A party may appeal on any point of law from the findings of the Professional Conduct Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be filed at the Nova Scotia Court of Appeal and served upon the other party not later than thirty days after service of the decision of the Professional Conduct Committee.

(3) The record on appeal from the findings of the Professional Conduct Committee consists of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the Chair of the Committee.

(4) The Civil Procedure Rules, governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal, that are not inconsistent with this Act, apply mutatis mutandis to appeals to the Court of Appeal pursuant to this section.

(5) Where a matter is appealed to the Nova Scotia Court of Appeal pursuant to this section, the decision of the Professional Conduct Committee takes effect immediately unless the Court of Appeal grants a stay of any order made pursuant to this Act where, in its discretion, it deems fit.

## PART IV

### PROFESSIONAL INCORPORATION

#### **Incorporation not prevented**

49 Subject to any Regulations made pursuant to section 7, nothing in this Act prevents the incorporation of a social worker, but every social worker continues to be personally responsible for compliance with this Act and the Regulations, notwithstanding any incorporation.

#### **Liability for acts or omissions**

50 All persons who carry on the practice of social work as, by, through or on behalf of an incorporated entity are liable in respect of acts or omissions done or omitted to be done by them in the course of their practice to the same extent and in the same manner as if such practice were carried on by them as an individual or a partnership carrying on the practice of the profession.

#### **Applicable law or standard not affected**

51 Where a member is engaged in the practice of social work as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between a social worker and the social worker's client.

#### **Shareholders, directors, officers and employees are compellable**

52 All shareholders, directors, officers and employees of an incorporated entity engaged in the practice of social work are compellable witnesses in any proceedings pursuant to this Act.

#### **Power of inspection, investigation or inquiry continues**

53 Where the conduct of a social worker is the subject of a complaint, investigation or inquiry and the social worker was an officer, director, shareholder or employee of an incorporated entity at the time the conduct occurred, any power of inspection, investigation or inquiry that may be exercised in respect of the social worker's records may be exercised in respect of the incorporated entity or its records.

#### **Offences and penalties apply**

54 (1) Every incorporated entity engaged in the practice of social work that contravenes this Act or the Regulations is guilty of an offence and is liable to the same penalties as any person who is guilty of an offence under this Act.

(2) Sections 25 and 26 apply mutatis mutandis to all incorporated entities engaged in the practice of social work.

PART V  
GENERAL

**Privilege**

55(1) In this section,

(a) "legal proceeding" means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be sought or given, and includes a public inquiry or an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the Regulations;

(b) "report" includes any document, statement, electronic record, minute, note, correspondence or memorandum created or received by a person, committee, panel or agent of the College for the purpose of any investigative, hearing, registration, licensing, or other regulatory process of the College, but, where the witness is a complainant, does not include an original document prepared by the complainant and, where the witness is a member, does not include an original document prepared by the member;

(c) "witness" includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and without limiting the generality of the foregoing includes employees and agents of the College, or persons who are members of committees of the College;

(2) A witness in any legal proceeding, whether a party to the proceeding or not, shall not

(a) answer any question as to any proceedings of the College taken pursuant to this Act or the regulations; or

(b) produce any report.

(3) Reports are not admissible in a legal proceeding.

(4) Subsections (2) and (3) do not apply

(a) with respect to a report, if the report has been made available to the public by the College; or

(b) if the written consent of the member involved in the College proceeding, the witness and all persons whose interests might be affected by the disclosure has been obtained and a court or administrative tribunal of competent jurisdiction authorizes the witness to answer the question or produce the report.

**Duty to report**

56(1) A member has a duty to report to the Executive Director if the member has reasonable grounds to believe that another member

(a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;

(b) is incapacitated; or

(c) is practising in a manner that otherwise constitutes a danger to the public.

(2) No action for damages or other relief lies against any person for any report made pursuant to subsection (1) if such report was made in good faith.

### **Fines and costs payable to College**

57 Any fine or costs ordered to be paid pursuant to this Act or the Regulations is a debt due to the College recoverable by civil action, in addition to any other remedy available to the College for non-payment of a fine or costs.

### **No action lies**

58 (1) No action for damages or other relief lies against the College, the Council, the persons on the Council, committees or subcommittees of the College or Council, or the persons on the committees or subcommittees or the Executive Director, officers, agents or employees of the College

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out the duties or obligations under this Act; or

(b) for any decision, order or resolution made or enforced in good faith under this Act.

(2) No action lies against any person for the disclosure of any information or any document or anything therein pursuant to this Act unless the disclosure is made with malice.

(3) No member of the College, the Council, committees or subcommittees of the College or Council, or any officer, agent or employee thereof is personally liable for any of the debts or liabilities of the College, unless the person expressly agrees to be liable.

### **Power to appoint additional committee members**

59 Whenever for any reason a quorum of members of any committee is not available for a meeting or hearing, the Council may, for the purpose of such meeting or hearing, appoint to the committee such additional members as are needed for a quorum.

### **Exemptions from application of Act**

60 Nothing in the Act prohibits:

(a) a social work student who is authorized to engage in the practice of social work as part of an approved social work education program from engaging in the practice of social work, provided that they use a title or description such as "social work student" or "social work intern" or other title or description of services which clearly indicates their student or intern status; or

(b) the practice of any profession authorized pursuant to a statute of the province, by a professional authorized pursuant to such statute, from practicing within the authorized scope of



practice of their profession and within their individual scope of practice, where such person does not describe their practice as “social work”, or words of similar meaning.

### **Transition**

61(1) Upon the coming into force of this Act, any matter pending before a Complaints Committee under the former Act, shall continue to be proceeded with in accordance with this Act as new circumstances permit.

(2) Upon the coming into force of this Act, any matter pending before a Discipline Committee under the former Act for which no evidence has been heard, shall be proceeded with in accordance with this Act by the Professional Conduct Committee as new circumstances permit.

(3) Upon the coming into force of this Act, any matter pending before a Discipline Committee under the former Act where evidence has been heard, shall be proceeded with in accordance with the former Act.

(4) Upon the coming into force of this Act, any application for registration or licence that has not been determined shall continue to be proceeded with in accordance with this Act as new circumstances permit.

### **Proclamation**

62 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.