



Nova Scotia
Occupational Therapy
Regulator

Professional Conduct Policies

Updated Mar 31, 2025

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Preamble

PRINCIPLES

As the regulatory body for occupational therapists in Nova Scotia, the Nova Scotia Occupational Therapy Regulator (NSOTR) ensures that the public receives safe, ethical, effective, and high-quality occupational therapy services. NSOTR achieves this mandate, in part, through its professional conduct process.

The governing legislation for NSOTR is the *Regulated Health Professions Act*, along with the *Regulations* to that *Act* and the NSOTR By-Laws. The *Regulated Health Professions Act* states that the objects of NSOTR are to:

- protect the public from harm;
- serve and promote the public interest;
- subject to the public interest, preserve the integrity of the profession; and
- maintain public confidence in the ability of NSOTR to regulate the profession.

In furthering these objects, the purpose of the professional conduct process is to address professional misconduct, conduct unbecoming the profession, incompetence, and (unless addressed through the Fitness to Practise process), incapacity. NSOTR is obligated to investigate, on its own initiative or on the basis of a complaint, allegations related to these concerns.

Except where considered prejudicial to the attainment of NSOTR's objects, the professional conduct process will take into account the potential for the rehabilitation of the respondent occupational therapist.

In addition to the requirements set out in the *Regulated Health Professions Act*, the *Regulations*, the By-Laws, and these policies, the professional conduct process is subject to common law requirements, including adherence to the principles of procedural fairness and natural justice, which include:

- Right to Notice: a respondent has the right to receive notice of an investigation and the nature of the complaint;
- Right to Fairness: a respondent has the right to a fair, impartial, timely, and transparent investigation procedure;
- Right to Counsel: a respondent has the right to be represented by or seek independent legal counsel;

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- Right to Submit Information: complainants and respondent have the right to submit information they wish to be considered;
- Right to Respond: a respondent has the right to respond to any allegations prior to a final decision; and
- Right to Reasons: complainants and respondents have the right to understand the reasons for the disposition.

DEFINITIONS

Competence:	The ability to integrate and apply competencies in a designated role and practice setting.
Complaint:	A notice submitted to NSOTR in the form approved by the Registrar that advises of matters that may constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a registrant.
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.
Conduct unbecoming:	Conduct in a registrant's personal or private capacity that tends to bring discredit upon registrants or the occupational therapy profession.
Costs:	<p>Include:</p> <ul style="list-style-type: none">(a) expenses incurred by NSOTR for investigating and deciding a matter;(b) costs of competence assessments and other assessments, audits, examinations and practice reviews conducted by NSOTR in the course of addressing a matter;(c) NSOTR's solicitor and client costs, including disbursements and goods and services tax, and including those of counsel for NSOTR and counsel for a committee;(d) fees for retaining a court reporter and preparing transcripts;(e) travel costs and reasonable expenses of a witness, including an expert witness;(f) honoraria for committee members and travel costs and reasonable expenses of committee members; and(g) such other costs as may be prescribed.

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:	A lack of competence demonstrated in the registrant's care of a client or delivery of occupational therapy services that, having regard to all the circumstances, rendered the registrant unsafe to practise at the time of such care of the client or delivery of occupational therapy services or that renders the registrant unsafe to continue in practice without remedial assistance.
Investigator:	A person designated by the Registrar to conduct or supervise an investigation into a complaint.
Licensing sanction:	<p>Includes:</p> <ul style="list-style-type: none">(a) the imposition of conditions or restrictions on a licence by a Complaints Committee or a Professional Conduct Committee or an equivalent body from another jurisdiction, but does not include conditions or restrictions imposed by the Complaints Committee as interim measures or through an informal resolution process;(b) a consent reprimand ordered by a Complaints Committee or an equivalent body from another jurisdiction;(c) a reprimand issued by a Professional Conduct Committee or an equivalent body from another jurisdiction;(d) a fine ordered by a Professional Conduct Committee or an equivalent body from another jurisdiction;(e) a suspension of a licence by a Professional Conduct Committee or an equivalent body from another jurisdiction; <p>or</p> <ul style="list-style-type: none">(f) a revocation of registration or licence by a Professional Conduct Committee or an equivalent body from another jurisdiction, <p>but does not include a caution.</p>
Professional misconduct:	<p>Includes such conduct or acts relevant to the practice of occupational therapy that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional, including</p> <ul style="list-style-type: none">(a) failing to maintain the standards of practice;(b) failing to adhere to any codes of ethics adopted by NSOTR;

- (c) abusing a person verbally, physically, emotionally or sexually;
- (d) misappropriating property, including drugs, belonging to a client or an employer;
- (e) inappropriately influencing a client to make or change a legal document;
- (f) abandoning a client;
- (g) neglecting to provide care to a client;
- (h) failing to exercise appropriate discretion with respect to the disclosure of confidential information;
- (i) falsifying records;
- (j) inappropriately using licensing 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 communication 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 or taking any examination provided for in the *Act*, including using fraudulently procured credentials; and
- (n) taking or using a designation or a derivation or abbreviation thereof, or describing the person's activities as being part of the practice of occupational therapy in any communication, including verbally, unless the referenced activity falls within the practice of the profession.

Registrant: An occupational therapist whose name is entered in the NSOTR register.

Respondent: The person who is the subject of a complaint or other regulatory process under the *Act* or the *Regulations*.

Policy #1: Receipt of Complaint and Investigation

AUTHORITY *Regulated Health Professions Act, ss. 64-80*
Regulated Health Professions General Regulations, s. 23

DATE APPROVED

February 25, 2025

PURPOSE

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

POLICY STATEMENT:

Receipt of Complaint

1. A complaint may be initiated by:
 - a. the Registrar;
 - b. an NSOTR committee; or
 - c. any other person.
2. A complaint may be received by:
 - a. completion of an online form available on NSOTR's website;
 - b. written letter;
 - c. email correspondence;
 - d. verbal or audio/visual recorded communication to NSOTR, where providing a written complaint would present a barrier to the potential complainant. In such cases, the Registrar will ensure that the complaint is documented in a written format and approved by the complainant.
3. For the purposes of the professional conduct process, NSOTR 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.
4. Upon receipt of a complaint, the Registrar will verify that NSOTR has jurisdiction over the subject of the complaint and will consider whether interim measures may be warranted pursuant to Policy #6: Interim Measures.

5. The Registrar or an investigator may contact the complainant to clarify the complaint, gather additional information, or review the professional conduct process.
6. As soon as is reasonably practical after receiving a complaint, the Registrar will send an acknowledgement letter to the complainant and include such other information regarding the professional conduct process as is appropriate.
7. Where the Registrar and the complainant agree, a complaint may be withdrawn.
 - a. In determining whether to agree to withdraw a complaint, the Registrar will consider whether the withdrawal would be consistent with the objects of NSOTR and the purpose of the professional conduct process.
 - b. A decision to withdraw a complaint will be confirmed in writing with the complainant and the respondent (where the respondent has already been notified of the complaint).
 - c. If the Registrar determines that there are extenuating circumstances (e.g., health or safety concerns) which would be ameliorated by the withdrawal of the complaint, but the subject matter of the complaint raises a significant public protection issue, the existing complaint may be withdrawn and substituted with a Registrar's complaint.

Duties of the Registrar Prior to Investigation

8. Upon receipt of a complaint and prior to investigating, the Registrar will:
 - a. dismiss the complaint and notify the complainant and the respondent of this disposition with written reasons the if the Registrar decides that:
 - i. the complaint is not within the jurisdiction of NSOTR;
 - ii. the complaint cannot be substantiated;
 - iii. the complaint is frivolous or vexatious;
 - iv. the complaint constitutes an abuse of process;
 - v. the facts alleged, even if proven, do not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would not merit a caution; or
 - vi. the processing of the complaint would not advance the objects of NSOTR.
 - b. informally resolve the complaint pursuant to Policy #2: Informal Resolutions by the Registrar;
 - c. authorize the resignation of the respondent;
 - d. where the respondent and the Registrar agree, refer the matter to the Fitness to Practise process pursuant to Policy #4: Fitness to Practise; or
 - e. begin an investigation.
9. If the Registrar dismisses the complaint pursuant to paragraph 8(a), the Registrar:

- a. may provide written advice relevant to the complaint to the respondent, the complainant, and/or any person or organization affected by the complaint, and shall in all cases provide a copy of any written advice to the respondent; and
- b. will advise the complainant of their right to request a review of the dismissal pursuant to s. 77 of the *Regulated Health Professions Act*, within 30 days of being notified of the dismissal.

Investigation

10. If the Registrar begins an investigation pursuant to paragraph 8(e), the Registrar:
 - a. will, as soon as is reasonably practical, send a notice to the respondent notifying them that a complaint has been received including 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 30 days or such other time period deemed appropriate by the Registrar; and
 - b. may conduct the investigation or appoint an investigator to conduct the investigation.
11. When investigating a complaint, the Registrar or an investigator may:
 - a. require the respondent to provide a response to the matters under investigation within such time as directed;
 - b. request documents and written or oral explanations from the complainant, respondent or third parties;
 - c. request an interview with the complainant, respondent or third parties; and
 - d. with the respondent's consent:
 - i. where the Registrar has reasonable and probable grounds to believe that the respondent may be incapacitated, require the respondent to submit to physical or mental examinations by a qualified person or persons designated by the Registrar;
 - ii. order a review or audit of the respondent's practice by a qualified person or persons designated by the Registrar; and/or
 - iii. complete a competence assessment.
12. The Registrar or 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.
13. In the course of conducting an investigation, the Registrar or investigator may:
 - a. 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; and

- b. with the approval of the Chair of the Complaints Committee, if there are reasonable and probable grounds to believe there is evidence relevant to an investigation at a registrant's place of practice, and upon providing proof of their appointment as an investigator, enter the registrant's place of practice at any reasonable time to examine the place of practice and any equipment, book, account, report, record or thing found there that is relevant to the investigation.
- 14. The Registrar or investigator will prepare an investigation report in a form acceptable to the Registrar, which will include information regarding the registrant's Professional Conduct History pursuant to Policy #5: Professional Conduct History (if any).
- 15. The Registrar will provide a copy of the investigation report to the respondent and invite the respondent to respond to the report within 30 days, or such other time period deemed appropriate by the Registrar.

Duties of the Registrar Following Investigation

- 16. Upon the conclusion of the investigation, the Registrar will review the results of the investigation and the respondent's response to the investigation (if any), and will:
 - a. dismiss the complaint and notify the complainant and the respondent of this disposition with written reasons if the Registrar decides that:
 - i. the complaint is not within the jurisdiction of NSOTR;
 - ii. the complaint cannot be substantiated;
 - iii. the complaint is frivolous or vexatious;
 - iv. the complaint constitutes an abuse of process;
 - v. the facts alleged, even if proven, do not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would not merit a caution; or
 - vi. the processing of the complaint would not advance the objects of NSOTR;
 - b. informally resolve the complaint pursuant to Policy #2: Informal Resolutions by the Registrar;
 - c. authorize the resignation of the respondent;
 - d. where the respondent and the Registrar agree, refer the matter to the Fitness to Practise process pursuant to Policy #4: Fitness to Practise; or
 - e. refer the matter to the Complaints Committee.
- 17. If the Registrar dismisses the complaint pursuant to paragraph 16(a), the Registrar:
 - a. may provide written advice relevant to the complaint to the respondent, the complainant, and/or any person or organization affected by the complaint, and shall in all cases provide a copy of any written advice to the respondent; and

- b. will advise the complainant of their right to request a review of the dismissal pursuant to s. 77 of the *Regulated Health Professions Act*, within 30 days of being notified of the dismissal.
- 18. Where the Registrar is satisfied that a registrant has engaged in practice without a valid licence, the Registrar may fine the registrant an amount as set out in the By-Laws.
 - a. Where a registrant fails to pay a fine imposed pursuant to this paragraph, the Registrar will refer the matter to the Complaints Committee.
 - b. Upon receiving a referral pursuant to paragraph 18(a), the Complaints Committee may direct the Registrar to suspend the registrant's licence or suspend the ability of the registrant to obtain a licence until the fine is paid, together with any reinstatement fee ordered by the Committee.
 - c. If a registrant has been suspended pursuant to paragraph 18(b), the Registrar may take such steps, at the expense of the registrant, to bring the suspension to the attention of the public or other affected individuals as the Registrar considers necessary.

Policy #2: Informal Resolutions by the Registrar

AUTHORITY *Regulated Health Professions Act*, ss. 71(1)(b), 73(1)(b)

DATE APPROVED

February 25, 2025

PURPOSE

The Registrar may informally resolve a complaint at any point prior to the matter being referred to a committee, where such a resolution would be consistent with the objects of NSOTR and the purpose of the professional conduct process. The Registrar will consider whether every complaint is appropriate for informal resolution pursuant to this Policy.

The Registrar may delegate the task of informally resolving a matter to another individual, including another staff person, an investigator, or legal counsel.

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

POLICY STATEMENT

1. The Registrar may assess a complaint (including any additional information obtained pursuant to Policy #1: Receipt of Complaint and Investigation) 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 take such other action permitted by the *Regulated Health Professions Act* under the circumstances, including dismissal, referral to the FTP process, beginning an investigation, or referral to the Complaints Committee.
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 Registrar and the respondent; or

- b. cannot reach an agreement on the terms of an informal resolution, the Registrar may take such other action permitted by the *Regulated Health Professions Act* under the circumstances, including dismissal, referral to the FTP process, beginning an investigation, or referral to the Complaints Committee. 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 Registrar and the respondent by signature or electronic means.
- 6. Where necessary, the content of confirmed informal resolution agreements will be monitored by the Registrar for successful completion.
- 7. If a respondent breaches an informal resolution agreement, this may be considered professional misconduct and the Registrar may take such other action set out in the agreement or as permitted by the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws, including, where appropriate, filing a new complaint.
- 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, the Registrar may attempt to negotiate a new agreement consistent with this Policy, or the Registrar may take such other action as permitted by the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws.
- 9. Informal resolutions will be included in the respondent's professional conduct history pursuant to Policy #5 – Professional Conduct History.

Appendix A to 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 → Alternative action under *RHPA*.

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 → Alternative action under *RHPA*.

Step 3: Review the Purpose of the Professional Conduct Process

- Is an Informal Resolution consistent with the objects of NSOTR and the purpose of 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 NSOTR'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 → Alternative action under *RHPA*.

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/competencies
 - 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 Registrar and respondent agree to the proposed resolution → Prepare a written agreement.
- If the Registrar and respondent cannot agree on a proposed resolution → Alternative action under *RHPA*.

** Adapted from the Nova Scotia College of Nurses Staff Tool for Alternative Resolution (2016).*

Policy #3: Complaints Committee Procedure

AUTHORITY *Regulated Health Professions Act*, ss. 64-90

DATE APPROVED

February 25, 2025

PURPOSE

The Complaints Committee considers all matters referred to it in an objective manner to determine an appropriate outcome consistent with the objects of NSOTR and the purpose of the professional conduct process.

Any power or function of the Complaints Committee may be exercised by a duly constituted panel of that Committee.

Other powers and functions of the Complaints Committee not addressed in these policies will be fulfilled as set out in the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws.

POLICY STATEMENT

Role of Committee Members

1. Prior to Complaints Committee meetings, Committee members appointed to a panel will comprehensively review the investigative material related to a complaint.
2. Committee members will attend meetings to discuss the investigative material and other information received with other members of the panel, and may seek procedural and administrative guidance from a Committee support person.
3. Committee members will, at all times, act in accordance with the duties established in the *Regulated Health Professions Act*, the *Regulations*, the By-Laws, these policies, and the applicable principles of natural justice.
4. The panel Chair will:
 - a. assume responsibility for directing Committee meetings and ensuring all procedural requirements have been fulfilled, including conflict checks;
 - b. guide the Committee's preparation for the questioning of individuals appearing before the Committee (if any), including ensuring that the questioning is appropriate and determining information requiring clarification;

- c. ensure all Committee members have had an opportunity to provide substantive input into the decision-making process;
- d. ensure that the Committee's written decision is complete and reviewed by all members.

Role of Committee Support Person(s)

- 5. The Committee may have a support person(s) present during Committee meetings, including the Registrar, other NSOTR staff, legal counsel, and/or investigator(s). The Committee support person(s) may attend meetings of the Committee to support the decision-making process, including on administrative or procedural issues, or to clarify the information received. The Committee support person(s) may be present during deliberations of the Committee, but will not vote as a decision-maker.

Committee Powers and Duties

- 6. The Registrar may refer a complaint to the Committee as permitted by the *Regulated Health Professions Act*, the *Regulations* or the By-Laws, including:
 - a. at the conclusion of an investigation pursuant to s. 73(1)(f) of the *Regulated Health Professions Act*;
 - b. where a registrant fails to pay a fine imposed by the Registrar pursuant to s. 74(3) of the *Regulated Health Professions Act*;
 - c. where a complainant requests a review of the Registrar's decision to dismiss a complaint pursuant to s. 77(2) of the *Regulated Health Professions Act*;
 - d. at any time during an investigation to:
 - i. provide direction with regard to the investigation; or
 - ii. exercise any of the powers conferred upon it in the *Regulated Health Professions Act* and the *Regulations*.
- 7. Once referred, the Committee retains jurisdiction over a matter until:
 - a. a hearing commences before the Professional Conduct Committee;
 - b. the Complaints Committee recommends a settlement agreement to the Professional Conduct Committee; or
 - c. the Complaints Committee refers the matter to the FTP Committee, where appropriate.
- 8. At any time before the disposition of a complaint, the Committee may:
 - a. direct any investigation the Committee considers necessary;
 - b. receive information in addition to the investigation report if the information is relevant to the matters before it (in which case the respondent must be given an opportunity to respond to the information before the Committee's final disposition of the matter);
 - c. require the respondent to provide a written response to the matters under investigation within such time as directed by the Committee;

- d. where the matter may involve incapacity and the respondent and Registrar agree, refer the matter to the FTP process;
 - e. interview such persons as the Committee deems relevant; and
 - f. impose a publication ban on information that may be subject to confidentiality under the *Regulated Health Professions Act*.
- 9. The respondent has the right to:
 - a. be represented by legal counsel, a union representative, or another representative, at the respondent's own expense;
 - b. notice of any matters under investigation;
 - c. a reasonable opportunity to present a response and make submissions in such form as determined by the Committee;
 - d. such other information as natural justice requires; and
 - e. such other information as determined by the Registrar.
- 10. The Committee may require the respondent to:
 - a. submit to physical or mental examinations by a qualified person or persons designated by the Committee;
 - b. submit to a review or audit of the respondent's practice by a qualified person or persons designated by the Committee;
 - c. complete a competence assessment as directed by the Committee to determine whether the respondent is competent to practise; or
 - d. produce any records or documents kept respecting the respondent's practice that the Committee deems relevant,

the expense of which will be paid by NSOTR but which may be awarded as costs against the respondent.
- 11. Unless the complaint is dismissed, the Committee will give the respondent a reasonable opportunity to appear before it, and may request other persons to appear before it, prior to disposing of a complaint.
 - a. At the Committee's discretion, the appearance may be in person, by video, or teleconference.
 - b. Where individuals other than the respondent appear before the Committee and provide new information not already known to the respondent, the respondent will be given an opportunity to respond to that information prior to the Committee's final disposition.
- 12. Where a respondent fails to comply with any direction from the Committee or the Professional Conduct Committee, it may suspend or restrict the respondent's licence until the suspension or restriction is lifted, superseded or annulled by the Complaints Committee or the Professional Conduct Committee, respectively.

Committee Dispositions

13. Where a complaint is referred to the Committee, the Committee may:
- a. **dismiss** the complaint and provide any guidance the Committee considers useful to the complainant, the respondent, or any other person associated with the complaint, if the Committee determines that:
 - i. the complaint is outside the jurisdiction of NSOTR;
 - ii. the complaint cannot be substantiated;
 - iii. the complaint is frivolous or vexatious;
 - iv. the complaint constitutes an abuse of process;
 - v. the facts alleged, even if proven, would not constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would not merit a caution; or
 - vi. the processing of the complaint would not advance the objects of NSOTR;
 - b. **informally resolve** the complaint (which may include costs where the parties agree), in which case the Committee may in its discretion consider the relevant guidelines set out in Policy #2 – Informal Resolutions by the Registrar, *mutatis mutandis*, and such outcome will not constitute a licensing sanction;
 - c. subject to the *Regulations*, refer the matter to another form of **dispute resolution**, and such outcome will not constitute a licensing sanction;
 - d. **caution** the respondent (which may include costs), if the Committee 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 outcome will not constitute a licensing sanction;
 - e. with the respondent's consent, order that the respondent receive a **reprimand** (which may include costs) and that the reprimand be communicated to the respondent, the complainant, and any other person the Committee considers appropriate, if the Committee 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 outcome will constitute a licensing sanction;
 - f. with the respondent's consent, impose **conditions and/or restrictions** on the respondent's registration or licence, if the Committee 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 outcome will constitute a licensing sanction;
 - g. where the matter may involve incapacity and the respondent and the Registrar agree, refer the matter to the **FTP process**; and/or

- h. where a determination is made that the matter warrants a hearing, **refer the matter to the Professional Conduct Committee**, in advance of which, the Committee may seek an opinion on the prosecutorial viability of the matter from legal counsel.

14. The disposition decision will be made by majority vote of the panel.

Written Decisions

15. The Committee will issue a written decision with reasons for the disposition pursuant to paragraph 13, and will (subject to any publication bans) direct the Registrar to send:

- a. a copy of the decision to the respondent;
- b. a copy of the decision, or a summary of the decision, to the complainant; and
- c. some or all of the decision, or a summary of the decision, to such other persons as the Committee determines.

16. The decision may be delivered electronically and/or by such other delivery method as determined by the Registrar.

17. The written decision will include:

- a. the names of the members of the Committee panel;
- b. the names of any individuals who appeared before the Committee (unless the Committee determines that an individual's name should not be disclosed);
- c. the names of other individuals in attendance throughout the meeting of the Committee (including Committee support person(s));
- d. a summary of the complaint, response and any other relevant information obtained;
- e. where a publication ban has been ordered, the reasons for such order and the extent of the ban; and
- f. reasons for the specific disposition, including:
 - i. if the complaint has been dismissed, the reasons for the dismissal, and if appropriate, any guidance the Committee considers useful to the complainant, the respondent, or any other person associated with the complaint;
 - ii. if the complaint has been informally resolved, the terms of the informal resolution and the reasons for its acceptance;
 - iii. if the complaint has been referred to another form of dispute resolution, the relevant details of the dispute resolution process and the reasons for the referral;
 - iv. 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;
- v. 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; confirmation of the respondent's consent to the reprimand; and direction that the reprimand be communicated to the respondent, the complainant, and any other person the Committee considers appropriate (and including, where appropriate, direction to provide notice, a summary, parts or a copy of the decision to any person the Committee directs);
 - vi. if conditions and/or restrictions have been imposed on the respondent's registration or licence, 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 specific conditions and/or restrictions imposed; confirmation of the respondent's consent to the conditions and/or restrictions; and the reasons why the conditions and/or restrictions are considered to be appropriate (and including, where appropriate, direction to provide notice, a summary, parts or a copy of the decision to any person the Committee directs);
 - vii. if the matter is referred to the FTP process, confirmation that the matter may involve an incapacity, confirmation that the respondent and the Registrar consent to the referral, and the reasons for the referral; or
 - viii. if the matter is referred to the Professional Conduct Committee, 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.

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

19. Draft decisions will be circulated to all Committee members for review and confirmation. When the decision is finalized, it will be signed (or electronically authorized) by the Chair of the panel.

20. In the event that any member(s) of the panel disagrees with the decision of the majority, such member(s) may write a dissenting opinion which will be signed (or electronically authorized) and attached to the majority decision.

Notification

21. If the disposition does not constitute a licensing sanction, the decision will be distributed as set out in paragraph 15, and there will be no further publication of the outcome which identifies the respondent, except:
- a. where the approved terms of an informal resolution permit broader notification and/or publication; or
 - b. as otherwise permitted or required by the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws.
22. If the disposition does constitute a licensing sanction, in addition to the distribution set out in paragraph 15, the Registrar will (except as prohibited by a publication ban):
- a. make appropriate entries on NSOTR's records and on the licence of the registrant to reflect the licensing sanction;
 - b. prepare a summary of the decision which contains:
 - i. the registrant's name and registration number;
 - ii. the provision of the *Regulated Health Professions Act* under which the licensing sanction was issued;
 - iii. the date of the decision;
 - iv. all relevant background information;
 - v. the allegations that were upheld by the Committee;
 - vi. whether the allegations amounted to professional misconduct, conduct unbecoming, incompetence or incapacity (but without including the specific nature of an incapacity);
 - vii. the disposition ordered by the Committee or agreed upon with the respondent;
 - viii. the reasons for the decision; and
 - ix. any additional information the Registrar considers necessary to meet the objects of NSOTR;
 - c. publish the summary prepared pursuant to paragraph 22(b):
 - i. on the NSOTR website;
 - ii. in any other publication determined by the Committee;
 - d. provide notice of the licensing sanction, and include information requested by another licensing jurisdiction, to:
 - i. registering bodies in other Canadian jurisdictions;
 - ii. registering bodies in the original jurisdiction of the registrant; and
 - iii. registering bodies in other jurisdictions where the registrant is known to be or to have been registered or is seeking registration;
 - e. provide to any additional person the Committee directs:

- i. notice of the decision;
 - ii. a summary of the decision;
 - iii. parts of the decision; or
- a copy of the decision.

Policy #4: Fitness to Practise

AUTHORITY *Regulated Health Professions Act*, ss. 122-131
Regulated Health Professions General Regulations, ss. 14-15, 45, 55

DATE APPROVED

March 31, 2025

DEFINITIONS

"incapacity" means 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;

PURPOSE

In circumstances where a registrant may be unable to practise safely, ethically or competently due to an incapacity, NSOTR recognizes the value of a voluntary alternative to the professional conduct process focused on achieving public protection through remediation.

Pursuant to s. 126(3) of the *Regulated Health Professions Act*, no registrant may be referred to the Fitness to Practise ("FTP") process unless:

- (a) a complaint concerns the registrant's incapacity;
- (b) the information disclosed in a regulatory process raises concerns respecting the registrant's incapacity;
- (c) a person raises questions respecting the possible incapacity of the registrant to NSOTR in the absence of a complaint; or
- (d) the registrant self-reports incapacity to NSOTR.

In addition to these criteria, the following **Eligibility Criteria** must also be met for a registrant to participate in the FTP process:

- The registrant must consent to a referral to the FTP process.
- The registrant must agree to participate in an assessment(s) and/or provide such other health information as determined by the Registrar to establish whether the registrant is experiencing an incapacity.
- Where the potential referral to the FTP process arises from a complaint against the registrant, the incapacity must be causally connected to, or have a nexus with, the issues that are the subject of the complaint.

- The Registrar must reasonably believe that the incapacity can be successfully treated or remedied such that the registrant can practise safely, competently and ethically.
- The Registrar must reasonably believe that the registrant is likely to pursue appropriate remediation or treatment.
- The Registrar must be satisfied that NSOTR's objects will be better served by having the matter addressed through the FTP process rather than another regulatory process, considering the following factors:
 - the nature of the incidents involved;
 - the impact of the incidents on clients, colleagues, the workplace, the public or the reputation of the profession;
 - the registrant's prior conduct history and/or fitness to practise history; and
 - such other factors relevant to the matter under consideration.
- The registrant must comply with any direction(s) to cease practising and/or to practise under terms and conditions at the direction of the Registrar and/or the FTP Committee, as the case may be.

POLICY STATEMENT

Entering the FTP Process

1. Where:
 - a. a complaint is received which concerns a registrant's incapacity (or an incapacity concern arises in the course of an investigation into a complaint);
 - b. the Complaints Committee or the Professional Conduct Committee refers a matter to the FTP process;
 - c. in the absence of a complaint, a person raises questions regarding the possible incapacity of the registrant to NSOTR; or
 - d. the registrant self-reports incapacity to NSOTR,the Registrar may consider whether the registrant is eligible for the FTP process pursuant to the Eligibility Criteria.
2. In considering the information obtained pursuant to paragraph 1, the Registrar will consider whether interim measures are required in the public interest, pursuant to Policy #6: Interim Measures.
3. The Registrar will attempt to obtain any additional information required to determine the registrant's eligibility for the FTP process.
4. Where the registrant previously participated in the FTP process, the Registrar and the FTP Committee will be provided with all information in NSOTR's possession related to the previous matter.

5. The Registrar will consider the available information and:
 - a. if the registrant is *not* eligible for consideration for the FTP process:
 - i. the registrant will be referred back to the committee conducting the regulatory process at the time of the referral to the FTP process; or
 - ii. where the matter was referred by the Registrar outside of a regulatory process, the Registrar will determine whether a regulatory process should be initiated or whether the matter requires further action under the *Regulated Health Professions Act*, and the registrant's file will accompany the referral; or
 - b. if the registrant *is* eligible for consideration for the FTP process, the Registrar will request that the registrant provide such information as is required to establish that they are suffering from an incapacity, which may include participating in an independent assessment by an appropriately qualified assessor appointed by the Registrar.

Determination of Incapacity

6. If the information obtained pursuant to paragraph 5(b) establishes that the registrant:
 - a. is *not* experiencing an incapacity (or, where the referral arose from a complaint, that the incapacity is not causally connected to, or has a nexus with, the issues that are the subject of that complaint), the registrant will be removed from the FTP process and:
 - i. the registrant will be referred back to the committee conducting the regulatory process at the time of the referral to the FTP process; or
 - ii. where the matter was referred by the Registrar outside of a regulatory process, the Registrar will determine whether a regulatory process should be initiated or whether the matter requires further action under the *Regulated Health Professions Act*, and the registrant's file will accompany the referral; or
 - b. *is* suffering from an incapacity (and, where the referral arose from a complaint, that the incapacity is causally connected to, or has a nexus with, the issues that are the subject of the complaint), the registrant will remain eligible for the FTP process.

Remediation of Incapacity

7. If the registrant remains eligible for the FTP process pursuant to paragraph 6(b), the Registrar may propose a "Remedial Agreement" (Part 1) to the registrant, setting out the terms and conditions that the Registrar considers appropriate to remedy the incapacity and that achieves NSOTR's objects. The Remedial Agreement will include terms and conditions which must be satisfied before the registrant can enter into a Return to Practice Agreement, and will include an agreement to either:

- a. cease practising while the Remedial Agreement remains in effect; or
 - b. continue in practice under terms and conditions as agreed by the Registrar, in which case, the Remedial Agreement will be referred to the FTP Committee for approval.
- 8. If the registrant and the Registrar:
 - a. do *not* agree on the terms of a Remedial Agreement, or the FTP Committee does not approve a Remedial Agreement pursuant to paragraph 7(b), the registrant will be removed from the FTP process and:
 - i. the registrant will be referred back to the committee conducting the regulatory process at the time of the referral to the FTP process; or
 - ii. where the matter was referred by the Registrar outside of a regulatory process, the Registrar will determine whether a regulatory process should be initiated or whether the matter requires further action under the *Regulated Health Professions Act*, and the registrant's file will accompany the referral; or
 - b. *do* agree on the terms of a Remedial Agreement, and, where necessary, the FTP Committee approves the Remedial Agreement pursuant to paragraph 7(b), the Registrar will monitor compliance with the Remedial Agreement.

Return to Practice

- 9. If the registrant advises the Registrar that they either:
 - a. wish to return to practice; or
 - b. wish to remove or vary the terms and conditions under which they are practising,the Registrar will consider the available information and determine whether the registrant has successfully completed the requirements of the Remedial Agreement.
- 10. If the Registrar determines pursuant to paragraph 9 that:
 - a. the requirements of the Remedial Agreement *have* been successfully completed, the Registrar may propose a "Return to Practice Agreement" (Part 2) to the registrant, which may set out the terms and conditions that must be satisfied before the registrant returns to practice; and terms and conditions applicable after the registrant returns to practice; or
 - b. the requirements of the Remedial Agreement *have not* been successfully completed, the matter may:
 - i. with the consent of the registrant, remain in the Remedial Agreement phase until all requirements have been fulfilled; or
 - ii. where the registrant will not consent to remain in the Remedial Agreement phase, be referred directly to the FTP Committee.

- 11. If, pursuant to paragraph 10(a), the Registrar and the registrant:

- a. *do* agree to the terms of a Return to Practice Agreement, the Return to Practice Agreement will be referred to the FTP Committee as a joint submission; or
 - b. *do not* agree to the terms of a Return to Practice Agreement, the matter will be referred directly to the FTP Committee.
- 12. Upon receipt of a referral pursuant to paragraphs 10(b)(ii) or 11(a) or (b), the FTP Committee will convene a meeting and may:
 - a. approve a jointly-submitted Return to Practice Agreement;
 - b. approve the registrant's return to practice on such other terms and conditions as the FTP Committee deems appropriate and with the registrant's agreement;
 - c. vary the terms and conditions under which the registrant is practising, with the registrant's agreement; or
 - d. deny the registrant's return to practice or variation request and refer the registrant back to the Registrar.
- 13. A registrant appearing before the FTP Committee has the right to:
 - a. be represented by legal counsel, a union representative, or another representative at their own expense;
 - b. notice of any matters under investigation;
 - c. a reasonable opportunity to make a response and make submissions in such form as determined by the Committee;
 - d. such other information as natural justice requires; and
 - e. such other information as determined by the Registrar.
- 14. The Registrar may participate in a meeting of the FTP Committee and may introduce evidence and make submissions in a form determined by the Committee before the meeting.
- 15. The FTP Committee will issue written reasons for their decision pursuant to paragraph 12.
- 16. If the registrant is referred back to the Registrar pursuant to paragraph 12(d), the registrant will be removed from the FTP process and:
 - a. the registrant will be referred back to the committee conducting the regulatory process at the time of the referral to the FTP process; or
 - b. where the matter was referred by the Registrar outside of a regulatory process, the Registrar will determine whether a regulatory process should be initiated or whether the matter requires further action under the *Regulated Health Professions Act*, and the registrant's file will accompany the referral.
- 17. If the registrant returns to practice or continues in practice on varied terms and conditions pursuant to paragraph 12(a), (b) or (c), the Registrar will monitor the

relevant terms and conditions and will, as appropriate, lift terms and conditions that are successfully completed.

Notification

18. Where there is an agreement in effect with a registrant to cease practising or to practise under terms and conditions, the Registrar will, without disclosing the nature of the registrant's diagnosis:
- a. annotate NSOTR's records to reflect the licensing status of the registrant;
 - b. notify the registrant's employer(s) known to NSOTR of the registrant's licensing status; and
 - c. notify the licensing authority in any other jurisdiction in which the registrant is licensed of the registrant's licensing status,
- except that:
- d. personal information and personal health information may be disclosed only if de-identified information will not accomplish the purpose for which the information is disclosed; and
 - e. 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.

General Issues

19. Where expenses are incurred in the FTP process related to the registrant's remediation of incapacity or in order for a registrant to continue in or resume practice, the Registrar or the FTP Committee may require the registrant to pay for such expenses on such terms as they determine.
20. The Registrar may request a meeting with the FTP Committee at any time during the FTP process with respect to the registrant's progress in the process or to request the registrant's removal from the process, including in circumstances where the Registrar has reason to believe that the registrant has:
- a. failed to meet any terms and conditions then in effect;
 - b. poses a threat to the public; or
 - c. poses a threat to their own health or safety or the health and safety of others.
21. A registrant may be referred back to the Registrar if:
- a. the registrant withdraws consent to participate in the FTP process;
 - b. the registrant fails to provide health information and/or participate in an assessment process as directed by the Registrar;
 - c. the registrant does not agree with the terms or conditions for practice or for a return to practice sought by the FTP Committee;
 - d. the FTP Committee:

- i. determines that a registrant has failed to meet the agreed terms and conditions of practice;
- ii. determines that a registrant poses an immediate threat to the health or safety of others;
- iii. is not satisfied that the registrant is incapacitated; or
- iv. considers that it is no longer consistent with NSOTR's objects for the registrant to participate in the FTP process; and

in such a case, the registrant will be removed from the FTP process and:

- e. the registrant will be referred back to the committee conducting the regulatory process at the time of the referral to the FTP process; or
- f. where the matter was referred by the Registrar outside of a regulatory process, the Registrar will determine whether a regulatory process should be initiated or whether the matter requires further action under the *Regulated Health Professions Act*, and the registrant's file will accompany the referral; and

the FTP Committee may, in such circumstances, award costs against a registrant to recover expenses incurred in the FTP process, including the cost of an assessment.

22. The Registrar may award costs against a registrant to recover expenses incurred for an assessment in the FTP process.

23. The FTP Committee may appoint an investigator to investigate possible non-compliance with a Remedial Agreement.

Policy #5: Professional Conduct History

AUTHORITY *Regulated Health Professions Act, s. 81(1)*

DATE APPROVED

March 31, 2025

PURPOSE

NSOTR will maintain a Professional Conduct History documenting all professional conduct and Fitness to Practise regulatory processes regarding a registrant. The Professional Conduct History may be used in any subsequent regulatory process involving the registrant.

POLICY STATEMENT

1. NSOTR will maintain an ongoing Professional Conduct History specific to individual registrants for all complaints and referrals to the Fitness to Practise process 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 or referral;
 - 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 disposition(s), date of the disposition(s), and if applicable, the disposition of any further reviews (*e.g.*, by the Professional Conduct Committee).
3. Where the Registrar or an investigator prepares an investigation report pursuant to paragraph 14 of 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 *Regulated Health Professions Act*, the *Regulations*, or the By-Laws; 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. Nothing in this Policy precludes the disclosure of any information related to a registrant's previous participation in a regulatory process to:
 - a. an investigator, in the course of investigating a complaint or referral; and/or
 - b. a statutory committee, in fulfilling its regulatory functions as authorized in the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws, notwithstanding that the information does not appear in a formal Professional Conduct History pursuant to this Policy.

Policy #6: Interim Measures

AUTHORITY *Regulated Health Professions Act, s. 89*
Regulated Health Professions General Regulations, ss. 12, 55

DATE APPROVED

March 31, 2025

PURPOSE

Interim Measures include temporary limitations or the suspension of a respondent's 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.

POLICY STATEMENT

1. At any time pending or following the completion of an investigation, the Registrar and/or the Complaints Committee may consider whether it is in the public interest to impose interim measures because there are reasonable and probable grounds to believe that:
 - a. a respondent is exposing or likely to expose the public, clients, the profession or the registrant to harm or injury; and
 - b. intervention is required prior to the disposition of the matter by the Complaints Committee or the Professional Conduct Committee.
2. In considering whether interim measures are required, the Registrar and/or the Complaints Committee 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 and/or the Complaints Committee determines that interim measures are required, the Registrar and/or the Complaints Committee may consider whether to seek an undertaking, or whether the Complaints Committee should impose an interim suspension, restrictions or conditions on the respondent's 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, a panel of the Complaints Committee will be convened forthwith to consider the imposition of an interim suspension, restrictions or conditions on the respondent's licence.
4. If, pursuant to paragraph 3, the Registrar and/or the Complaints Committee 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 and/or the Complaints Committee 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 Complaints Committee or the Professional Conduct Committee;
 - iv. explain that an undertaking is a voluntary agreement with NSOTR not to engage in practice 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, union representation, 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, a panel of the Complaints Committee will be convened forthwith to consider the imposition of an interim suspension, restrictions or conditions on the respondent's 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, a panel of the Complaints Committee will be convened forthwith to consider the imposition of an interim suspension, restrictions or conditions on the respondent's licence.

5. Where a panel of the Complaints Committee has been convened pursuant to paragraph 3(b), 4(d) or 4(f), and the Committee finds that there are reasonable and probable grounds to believe that:
 - a. a respondent is exposing or likely to expose the public, clients, the profession or the registrant to harm or injury; and
 - b. intervention is required prior to the disposition of the matter by the Complaints Committee or the Professional Conduct Committee,the Complaints Committee may, at its discretion, pending or following the completion of an investigation:
 - c. suspend the respondent's licence;
 - d. impose restrictions or conditions on the respondent's licence; or
 - e. where a respondent does not hold a current licence, suspend the ability of the respondent to obtain a licence,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.
6. In making a determination pursuant to paragraph 5, the Complaints Committee 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 patients, 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 Committee 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 Committee should consider the seriousness of the risk if the respondent were allowed to continue practising without restrictions. Interim action is an extraordinary measure and should be invoked sparingly in light of the consequences to the respondent.
 - d. *What kind of interim action is necessary?* If an interim order is necessary, the Committee should consider whether interim restrictions or conditions would be sufficient and proportionate. The Committee should also take into account the impact which an order may have on the respondent and satisfy itself that the consequences of the order are not disproportionate to the potential risk to the public.
7. If the Complaints Committee makes a decision pursuant to paragraph 5, the respondent will receive a written decision with reasons forthwith. The Committee

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:

- a. personal information and personal health information may be disclosed only if de-identified information will not accomplish the purpose for which the information is disclosed; and
 - b. 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 pursuant to s. 89(3) of the *Regulated Health Professions Act*, within 30 days of receiving the written decision, the respondent may request, in writing, an opportunity to meet with the Complaints Committee.
9. Where the respondent requests a meeting with the Complaints Committee as described in paragraph 8, the Committee will:
 - a. provide an opportunity for the respondent to meet with the Committee within 10 days of receiving the request;
 - b. after meeting with the respondent, confirm, vary, or terminate the suspension, restrictions or conditions; 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, a union representative, or another representative at the respondent's own expense;
 - b. disclosure of the complaint, any investigation report provided to the Complaints Committee, and any other document produced or received by the Committee; and
 - c. a reasonable opportunity to present a response and make submissions.
11. The Complaints Committee may allow a respondent to apply to lift, vary or terminate a suspension, restrictions or conditions on their licence at a time determined by the Committee.

Policy #7: Confidentiality and Disclosure of Information

AUTHORITY *Regulated Health Professions Act*, ss. 136-137
Regulated Health Professions General Regulations, s. 7, 55, 57-58

DATE APPROVED
March 31, 2025

PURPOSE

Information gathered in the course of the professional conduct and/or Fitness to Practise process should be treated with care and only be disclosed as permitted by the *Regulated Health Professions Act*, the *Regulations*, the By-Laws, or as required by law or to conduct a thorough and fair investigation.

POLICY STATEMENT

1. No individual (including but not limited to NSOTR staff, Committee members, investigators, the complainant, the respondent, and witnesses) who receives or has knowledge of information as a result of the professional conduct and/or Fitness to Practise process may 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 provided by the *Regulated Health Professions Act*, the *Regulations*, or the By-Laws;
 - c. to the individual's own legal counsel or healthcare provider;
 - d. any participant in a regulatory process (including a complainant, respondent or witness) may disclose the fact that they are a participant in the process to their employer;
 - e. in the case of the respondent, to the respondent's legal counsel, union or other representative, or healthcare provider;
 - f. in the case of a participant in a regulatory process, other than a respondent, to:
 - i. legal counsel for NSOTR;
 - ii. legal counsel, a union representative, or other representative for the respondent in that regulatory process; or
 - iii. the participant's own legal counsel, union representative, or healthcare provider;
 - g. if the Registrar or a participant in a regulatory 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;
 - h. if the information is otherwise publicly available;
 - i. as required by law; or
 - j. with the consent of the person to whom the information relates.
2. Notwithstanding paragraph 1, where it is consistent with the objects of NSOTR, the Registrar may disclose:
- a. to the public:
 - i. particulars of a licensing sanction that has been imposed on a registrant, subject to the terms of the Complaints Committee decision; and
 - ii. the decision of a Complaints Committee to issue an interim suspension or restriction on an interim basis, subject to the terms of the Complaints Committee decision;
 - b. to an extra-provincial regulatory body, without a request for disclosure:
 - i. that a complaint with respect to a registrant has been received, the particulars of the complaint, and that the matter is under investigation;
 - ii. the decision of a statutory committee that impacts the fitness or eligibility of a registrant for registration or licensing in the extra-provincial regulatory body; and
 - iii. any information that impacts the fitness or eligibility of a registrant applying for registration or licensing with the extra-provincial regulatory body;
 - c. to law enforcement authorities, information respecting possible criminal activity on the part of a registrant;
 - d. specific information to a specific person or agency as will enable the recipient to determine whether action is required to protect the public; and
 - e. to such other persons, such other information as is consistent with the objects of NSOTR and in the public interest.
3. A disclosure of information pursuant to paragraphs 1 or 2 will be limited to the minimum amount of information necessary to achieve the purpose for which it is disclosed.
4. The Registrar will publish the following information with respect to a registrant on the NSOTR website (subject to any publication bans):
- a. any current conditions and/or restrictions on their licence or registration; and
 - b. any licensing sanctions, but not including any expired conditions and/or restrictions,
- and may redact this information if there are reasonable grounds to believe it is in the public interest to do so.