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CHAPTER P-27.1

PSYCHOLOGISTS ACT

STANDARDS AND DISCIPLINE REGULATIONS

Pursuant to section 8 of the *Psychologists Act* Stats. P.E.I. 1990, c.49, after consultation with the Psychological Association of Prince Edward Island, the Prince Edward Island Psychologists Registration Board made, and the Lieutenant Governor in Council approved, the following regulations:

1. In these regulations

Definitions

- (a) “Act” means the *Psychologists Act* R.S.P.E.I. 1988, Cap. P-27.1; Act
- (b) “affected psychologist” means the psychologist who is complained against or is otherwise the subject of an inquiry, investigation or disciplinary process; affected psychologist
- (c) “Board” means the Prince Edward Island Psychologists Registration Board; Board
- (d) “complainant” means a person who submits a complaint against a psychologist; complainant
- (e) “full investigation” means a thorough examination of a case by the Investigation Committee following a preliminary inquiry, pursuant to section 10; full investigation
- (f) “Investigation Committee” means the committee appointed under section 8; Investigation Committee
- (g) “preliminary inquiry” means initial consideration of a complaint, allegation or suspicion by the Investigation Committee pursuant to section 9 for the purpose of determining whether a full investigation is warranted; preliminary inquiry
- (h) “Registrar” means the officer appointed under subsection 6(6) of the Act. (EC182/91) Registrar

STANDARDS

2. A psychologist shall exercise generally accepted standards of practice and procedures that are, in the judgment of the Board, consistent with a combination of Accepted standards

- (a) the Rules of Conduct as adapted by the Board from the model published by the Association of Psychology Regulatory Boards;

- (b) the Canadian Code of Ethics for Psychologists published by the Canadian Psychological Association;
- (c) Practice Guidelines for Providers of Psychological Services published by the Canadian Psychological Association;
- (d) current teaching in recognized schools of psychology; and
- (e) current research and thinking appearing in recognized professional journals and reports. (EC182/91)

Incompetence

3. (1) The Board may find a psychologist guilty of professional incompetence or negligence if it concludes that a client suffered demonstrable harm or serious risk of harm which can reasonably be attributed to something the psychologist did or failed to do or failed to take into account, which act or omission was inconsistent with generally accepted standards of practice and procedures, and cannot be justified by the psychologist to the satisfaction of the Board.

Idem

(2) In the case of a determination of incompetence or negligence which results in suspension or revocation of a certificate of registration, the Board's conclusion of guilt must be made without any negative vote. (EC182/91)

Currency and continuing education

4. A psychologist shall abide by the requirements of sections 14 and 15 of the Registration Regulations (EC181/91) regarding professional currency and continuing education. (EC182/91)

Misconduct

5. Without limiting the generality of section 15 of the Act, the Board may find a psychologist guilty of professional misconduct for any of the following reasons:

- (a) failing to abide by the norms of conduct indicated by the combination of the Rules of Conduct, the Code of Ethics and the Practice Guidelines referred to in section 2;
- (b) failing to abide by the terms of one's certificate;
- (c) failing to co-operate with an inquiry or investigation duly authorized by the Board;
- (d) failing to comply with directions issued by the Board in accordance with the Act or the regulations;
- (e) performing an act associated with practice which, in the judgment of the Board without any negative vote, would reasonably be regarded by the vast majority of psychologists as dishonourable or seriously offensive to a client. (EC182/91)

Insurance

6. A psychologist practising independently of those structured services described in clause 9(3) of the Act shall carry malpractice insurance for that independent practice at a level that is customary, in the Board's opinion, for Prince Edward Island. (EC182/91)

COMPLAINT AND INVESTIGATION

- 7.** (1) Any complaint to the Board against a psychologist shall be submitted to the Registrar, and the Registrar shall generally inform the complainant of the nature and process of the investigation and discipline system prescribed in these regulations. Complaint
- (2) The Registrar shall determine the substance and, to the extent immediately practicable, the background and facts of the complaint and report the matter to the Board. (EC182/91) *Idem*
- 8.** (1) When the Board, on its own initiative or as a result of a complaint, determines that there is cause for examining a particular alleged incident or the practice of a psychologist, it shall appoint an Investigation Committee. Investigation Committee
- (2) The Investigation Committee shall normally comprise the Registrar and a non-psychologist member of the Board, but may include such other persons, who may or may not be members of the Board, as the Board considers necessary. Membership
- (3) The Investigation Committee may engage the assistance of such other persons as the Board may authorize. (EC182/91) Assistance
- 9.** (1) The Investigation Committee shall conduct a preliminary inquiry to determine whether there is cause for full investigation. Preliminary inquiry
- (2) During the preliminary inquiry, the Investigation Committee shall in writing notify the affected psychologist of the inquiry and the nature of the complaint, allegation or suspicion. Notification of psychologist
- (3) If the Investigation Committee finds that there is not a sufficient basis for proceeding, it shall recommend to the Board that there be no further action, and the Board shall approve that conclusion or else direct the Investigation Committee to take further action, and shall so inform the affected psychologist in writing. (EC182/91) No basis for action
- 10.** If the Investigation Committee decides that there is cause for full investigation, or if directed by the Board pursuant to subsection 9(3), it shall in writing so inform the affected psychologist and carry out such full investigation as it considers appropriate or the Board may direct. (EC182/91) Full investigation
- 11.** (1) Wherever it thinks it appropriate, the Investigation Committee shall commend to the complainant and the affected psychologist the alternative of mediation, that is, an effort mutually to resolve the complaint, allegation or suspicion informally without further inquiry or investigation. Mediation alternative

Resolution	(2) If mediation resolves the matter, the Investigation Committee shall so notify the Board in writing, and if the Board is satisfied, there need be no further action.
Non-resolution	(3) Where the Investigation Committee believes that the attempt at mediation is not, or is not likely to be, successful, or where the Board is not satisfied, the preliminary inquiry or full investigation shall proceed. (EC182/91)
Parties to be heard	12. During the full investigation, and at the discretion of the Investigation Committee also during the preliminary inquiry, the Investigation Committee shall ensure that any complainant and the affected psychologist are each permitted to be heard and to submit evidence. (EC182/91)
Co-operation	13. The affected psychologist shall if required give full co-operation to the Investigation Committee, including the provision of such records within the psychologist's control as may be requested so long as that does not violate the norms of accepted practice described in section 2. (EC182/91)
Action pending outcome	14. On recommendation from the Investigation Committee, at any stage of the inquiry or investigation process, if (EC182/91) <ul style="list-style-type: none"> (a) there appears to be overwhelming evidence of negligence, incompetence or misconduct; (b) there is demonstrable risk to the affected psychologist's clients or to the general public; and (c) the Board so decides without any negative vote the Board may <ul style="list-style-type: none"> (d) make public or otherwise disclose the fact that an inquiry or investigation into the practice or conduct of the affected psychologist is under way; (e) suspend or impose a condition on the certificate of the affected psychologist; or (f) do both (d) and (e). (EC182/91)
No inclusive investigation	15. The Investigation Committee shall not inquire jointly or inclusively into the practice or conduct of another psychologist because of evidence which appears during the inquiry or investigation concerning the affected psychologist, but instead shall if necessary conduct a separate inquiry. (EC182/91)
Committee records	16. (1) The Investigation Committee shall keep records of the information it gathers related to the complaint, allegation or suspicion.
Confidentiality of records	(2) The Registrar shall keep these records confidential and not give access to them to persons other than the Board (including an alternate

appointed under subsection 19(2) or section 29), the Investigation Committee or its advisers or agents, except with the express consent of both the affected psychologist and the Investigation Committee.

(3) The completed file of an Investigation Committee inquiry, investigation and decision shall be kept for at least six years after the Board's decision on the matter, and thereafter at its discretion. Retention of records

(4) The file in a case where revocation or suspension of a certificate results shall be kept permanently. *Idem*

(5) Such records shall be inaccessible to anyone other than the Board or its authorized officers or agents, except by court order or with the consent of both the Board and the affected psychologist. (EC182/91) Accessibility of records

17. The Investigation Committee shall in writing report the findings of fact and conclusions of its investigation and any recommendations to the Board, which shall provide a copy to the affected psychologist. (EC182/91) Report

18. If the Board believes that the report of the Investigation Committee's investigation does not warrant proceeding further with the disciplinary process, the Board shall in writing so inform the affected psychologist and may, subject to the affected psychologist's concurrence, dismiss the matter and proceed no further on it, and the Board may so inform the complainant. (EC182/91) Complaint dismissed

HEARING AND JUDGMENT

19. (1) Unless the matter is dismissed in accordance with section 18, the Board shall hold a hearing to provide the affected psychologist with the opportunity to address the report of the Investigation Committee's investigation and otherwise present the psychologist's case to the Board as an impartial tribunal. Hearing

(2) Any Board member who has been a member of the Investigation Committee for the case to be heard may attend and speak at the hearing, but shall not sit as a member of the Board for purposes of making a judgment; rather, the Board may, if it considers it appropriate, appoint another objective person in that person's place for the purposes of the hearing and the Board's decisions to be made under section 20. Committee member not to judge

(3) The Board shall in no case conduct the hearing and make its decisions under section 20 with fewer than three members presiding, of whom one must be a non-psychologist. Quorum

Notice of hearing	(4) The Board shall, by ten days written notice delivered by hand or sent to the person's last known address, inform the affected psychologist of the time and place of the hearing, and of the right, if the psychologist wishes, to be represented at the hearing by legal counsel.
Legal counsel	(5) The Board is itself entitled to have legal counsel present if it wishes.
Procedures	(6) The Board shall make the rules under which a hearing is to be conducted, reflecting principles of natural justice, and shall inform the affected psychologist of the rules in advance.
Hearing closed	(7) A hearing shall be closed, but the Board <ul style="list-style-type: none"> (a) shall, if there is no reason to believe that it would be harmful, permit the complainant, if any, to attend and speak; and (b) may, if it considers it appropriate and constructive, permit other persons to attend.
If person does not attend	(8) If the affected psychologist does not take the opportunity or otherwise fails, without reasonable excuse, to attend the announced hearing, the Board may nonetheless proceed with the disciplinary process. (EC182/91)
Judgment by Board	20. The Board shall consider the report of the Investigation Committee together with such further information as has emerged from the hearing, and shall by vote determine <ul style="list-style-type: none"> (a) whether to accept the findings of fact of the Investigation Committee; (b) whether to accept, reject or modify the conclusions of the Investigation Committee; and (c) the remedial or disciplinary action, if any, to be taken. (EC182/91)
Notification of outcome	21. The Board shall forthwith notify in writing the affected psychologist of its decisions, and any requirements of the psychologist, specifying the time allotted for compliance and, in the case of suspension or revocation of a certificate, informing the affected psychologist of the right to appeal under section 16 of the Act. (EC182/91)
Compliance	22. Subject to the appeal provisions of section 16 of the Act, the psychologist against whom remedial or disciplinary action is taken shall comply with the Board's directions, and if there is not compliance within the specified time, the Board may apply an additional requirement or penalty. (EC182/91)
Re-instatement	23. The Board may, upon the psychologist's application, reinstate a suspended or revoked certificate according to subsection 16(3) of the Act

and according to such terms and conditions as it considers appropriate for protecting the public interest. (EC182/91)

REMEDIAL MEASURES AND PENALTIES

24. Where it finds the holder of a certificate guilty of professional misconduct, incompetence, negligence or failure to abide by the prescribed standards or other requirements of the Act or regulations, the Board shall determine a measure of remedy or penalty which it considers appropriate to the nature and degree of the failure. (EC182/91)

Board to determine
remedy or penalty

25. (1) Without limiting the generality of section 24, disciplinary measures may include the following:

Measures

- (a) a reprimand, whether oral or written;
- (b) direction that the person fulfil a continuing professional education requirement;
- (c) direction that the person complete a rehabilitative treatment program;
- (d) a term or condition imposed on the certificate, limiting the scope or independence of practice;
- (e) suspension of the certificate for a fixed period of time or until a condition has been fulfilled;
- (f) revocation of the certificate;
- (g) a combination of any of the above measures.

(2) As part of the discipline, the Board may require a person found guilty to pay the cost or part of the cost of the investigation and hearing. (EC182/91)

Idem

26. (1) The criteria for the Board's assessment of the nature and severity of the penalty or remedial measure shall include

Criteria

- (a) the extent of the affected psychologist's awareness of the fault;
- (b) the degree of risk or harm to the client;
- (c) the potential further risk to the public;
- (d) the potential effect upon the professional service system and the public;
- (e) the likely effect upon the disciplined person's ability to earn a livelihood;
- (f) the possible deterrent effect;
- (g) any restitution or remediation voluntarily undertaken by the affected psychologist.

(2) Wherever possible the Board shall seek, by the disciplinary action it takes, an approach and outcome of remedy or positive improvement rather than mere penalization. (EC182/91)

Idem

Confidentiality	27. (1) The Board shall, subject to this section and section 14, keep secret any investigation and disciplinary or remedial measures unless otherwise requested by the affected psychologist; however, the Board may reveal such matters in any report on its operation, so long as this is done in such a way that the parties involved cannot readily be identified.
Disclosure to complainant	(2) The Board may, if it considers it appropriate, disclose the outcome of the case to the complainant.
Outcome made public	(3) In unusual cases where it appears necessary for protecting the welfare of the public, the Board may choose as part of the penalty or remedy applied to reveal the nature of the case and its outcome, including the identity of the person at fault, to the complainant, the Minister, the Association, employers, other human-service professionals, regulatory bodies, law enforcement officials and the courts, or the general public.
Notification of employers, etc.	(4) Where a certificate is suspended or revoked, the Board shall so inform employers, regulatory bodies and others as may be applicable in order to prevent unauthorized practice.
Notification of reinstatement	(5) When the certificate of an affected psychologist is reinstated, the Board shall notify all persons to whom a notice of original action was sent in order to restore to the psychologist opportunities for authorized practice. (EC182/91)

MISCELLANEOUS

Liability of committee	28. No action lies against the Investigation Committee, its members or persons acting in accordance with its directions, nor against an alternate appointed under subsection 19(2) or section 29, for anything done in good faith with respect to its functions under these regulations. (EC182/91)
Member disqualified	29. A member of the Board or of the Investigation Committee shall withdraw from any official involvement as a member or officer in any hearing or disciplinary matter of which that person is the subject or where such involvement would create a conflict of interest, and the Board shall appoint some other objective person, who need not be a member of the Board, to act in the place of the person who has withdrawn. (EC182/91)
Statistical information	30. (1) The Board may compile and publish statistical information with regard to the volume and nature of the workforce, professional services and their use, and comparable subjects related to patterns of service, need, and performance, in such form that individuals are not identifiable without their consent.

(2) The holder of a certificate shall provide to the Registrar such information as may be requested by the Board for purposes of this section. (EC182/91) *Idem*