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CHAPTER S-5

SOCIAL WORK ACT

STANDARDS AND DISCIPLINE REGULATIONS

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

1. In these regulations

	Definitions
(a) "Act" means the <i>Social Work Act</i> R.S.P.E.I. 1988, Cap. S-5;	Act
(b) "affected social worker" means the social worker who is complained against or is otherwise the subject of an inquiry, investigation or disciplinary process;	affected social worker
(c) "Association" means the Prince Edward Island Association of Social Workers;	Association
(d) "Board" means the Prince Edward Island Social Work Registration Board referred to in section 6 of the Act;	Board
(e) "Committee on Standards and Discipline" means the committee appointed under section 8;	Committee on Standards and Discipline
(f) "complainant" means a person who makes a complaint or allegation against a social worker in accordance with subsection 13(1) of the Act;	complainant
(g) "detailed inquiry" means thorough examination of a case by the Inquiry Panel, following a preliminary inquiry, pursuant to subsection 10(6);	detailed inquiry
(h) "full investigation" means consideration of a case, after inquiry by the Inquiry Panel, by the Board itself, including a formal hearing, pursuant to sections 18 and 19;	full investigation
(i) "Inquiry Panel" means the panel appointed under section 9;	Inquiry Panel
(j) "preliminary inquiry" means initial consideration of a complaint or allegation by the Inquiry Panel pursuant to subsection 10(2) for the purpose of determining whether a detailed inquiry is warranted;	preliminary inquiry
(k) "Registrar" means the officer appointed under subsection 6(6) of the Act. (EC69/92)	Registrar

I. STANDARDS

- Acceptable practice **2.** A social worker shall exercise generally accepted standards of practice and procedures that are, in the judgment of the Board, consistent with a combination of
- (a) the person's professional training;
 - (b) current teaching as given in recognized schools of social work and reflected in professional journals and reports;
 - (c) customary practices generally evident among peers in Canada;
 - (d) such Code of Ethics as is approved by the Canadian Association of Social Workers and adopted by the Board; and
 - (e) such standards of practice as may be published by the Canadian Association of Social Workers and adopted by the Board. (EC69/92)
- Precedence of Code of Ethics **3.** Where the Board discovers a conflict between the Code of Ethics and the standards of practice, the Code of Ethics shall take precedence. (EC69/92)
- Continuing professional development **4.** A social worker shall abide by the requirements of section 17 of the Certification Regulations (EC359/89) regarding continuing professional development. (EC69/92)
- Incompetence **5.** The Board may find a social worker guilty of professional incompetence or gross negligence if it concludes, without any negative vote, that a client suffered demonstrable harm or serious risk of harm which can reasonably be attributed to something the social worker 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 social worker to the satisfaction of the Board. (EC69/92)
- Conflict of interest **6.** It is a conflict of interest for a social worker to enter into or accept a situation which, in the Board's judgment,
- (a) results, through the person's social work practice, in monetary or other personal gain other than that earned directly from the provision of professional services, or in gain for a person who refers a client to the social worker as a consequence of the referral; or
 - (b) puts the social worker's professional integrity or the rendering of services at risk of being controlled or detrimentally influenced by other persons or by factors other than the social worker's professional judgment of what is best for the client. (EC69/92)
- Misconduct **7.** Without limiting the generality of section 13 of the Act, the Board may, if it so concludes without any negative vote, find a social worker guilty of professional misconduct for any of the following reasons:
- (a) failing to abide by the terms of the certification;

- (b) failing to abide by the Code of Ethics;
- (c) exceeding the lawful scope of practice, as defined by the Act and amplified by the generally accepted norms of current Canadian professional literature, teaching in schools of social work, and common practice of peers;
- (d) having a conflict of interest;
- (e) failing to maintain current client records;
- (f) attempting to deal with a client's problems which the social worker recognizes or should recognize as being beyond the scope of the social worker's competence or expertise;
- (g) failing to refer a client both promptly and appropriately when the social worker recognizes, or should in the Board's judgment recognize, a condition requiring the attention of another professional;
- (h) permitting, in circumstances within the social worker's control, an unauthorized person to perform any of the functions of a social worker except as may be provided under the Act;
- (i) maintaining in records, signing, issuing or submitting a record, report, certificate, claim or similar document which the social worker knows or should know contains false or misleading information or which, by omitting significant information, may give a misleading impression;
- (j) giving information regarding a client's condition or therapy to a person other than the client without the consent of the client unless required to do so by law or for a purpose in accordance with the Code of Ethics;
- (k) purporting to have a qualification or special expertise which the social worker does not in fact possess and which has not been recognized by the Board;
- (l) engaging in practice while ability to perform any professional act is impaired by alcohol or other drug;
- (m) failing to co-operate with an inquiry or investigation duly authorized by the Board;
- (n) implementing a plan of therapy on a client instead of designing its goals and form through explanation and mutual discussion;
- (o) advertising that is, in the judgment of the Board with reference to such written guidelines as may be developed, improper or misleading;
- (p) attempting to carry out, without previously informing and obtaining the advice of the Board, research based on methods which do not conform to the social worker's training or to generally recognized contemporary custom;
- (q) failing to comply with directions issued by the Board in accordance with the Act and the regulations;

(r) exploiting professional relationships with clients, supervisors, students, employees, or research participants for personal advantage or gain;

(s) 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 social workers as dishonourable or seriously offensive to a client. (EC69/92)

Committee on
Standards and
Discipline

8. (1) The Board shall annually appoint a Committee on Standards and Discipline to promote standards of practice, advise on matters of professional competence, conduct and discipline, and provide for disciplinary investigation as may be required in accordance with subsection 13(1) of the Act.

Idem

(2) The Committee shall be composed of persons other than members of the Board, of such numbers and types as the Board considers appropriate; members of the Committee may be re-appointed.

Idem

(3) The Board shall appoint the chairperson of the Committee. (EC69/92)

II. INQUIRY

Inquiry Panel

9. (1) On receiving a written complaint or on direction from the Board, the Registrar shall so notify the chairperson of the Committee on Standards and Discipline, who shall establish an Inquiry Panel to deal with the complaint.

Idem

(2) The chairperson of the Committee on Standards and Discipline shall choose the members of an Inquiry Panel from among the members of that Committee, so that the Inquiry Panel comprises

- (a) three or more registered social workers;
- (b) a person other than a social worker, considered to represent the perspective of the general public; and
- (c) such other persons as the chairperson of the Committee on Standards and Discipline considers necessary.

Idem

(3) A person other than a member of the Committee on Standards and Discipline may be appointed to an Inquiry Panel if the Board considers this necessary and approves the choice.

Idem

(4) The Registrar shall be a non-voting *ex-officio* member of an Inquiry Panel.

Idem

(5) The chairperson of the Committee on Standards and Discipline shall designate the chairperson of an Inquiry Panel.

(6) The Inquiry Panel may engage the assistance of such other persons as the Board may authorize. (EC69/92) *Idem*

10. (1) All written complaints submitted in accordance with subsection 13(1) of the Act shall be received by the Registrar. *Complaints*

(2) On receiving a written complaint or on direction from the Board, the Inquiry Panel shall, by preliminary inquiry, determine within thirty days whether there is adequate cause for more fully inquiring into an alleged incident or the practice of a social worker. *Preliminary inquiry*

(3) During the preliminary inquiry, the Inquiry Panel shall, if it appears appropriate in a particular case, notify in writing an affected social worker of a written complaint and enclose a copy of the complaint. *Notification of complaint*

(4) If the Inquiry Panel finds that the allegation lacks substance, it shall recommend to the Board that no further action be taken, and the Board shall make a decision whether or not to proceed with a detailed inquiry. *No basis for action*

(5) If the Board decides not to proceed with a detailed inquiry, it shall dismiss the complaint and within seven days so inform the affected social worker and the complainant in writing. *Dismiss complaint*

(6) If the Inquiry Panel *Detailed inquiry*

- (a) decides that there are grounds for a detailed inquiry; or
- (b) is directed by the Board to proceed with a detailed inquiry pursuant to subsection (4),

it shall, within seven days,

- (c) so inform the affected social worker in writing;
- (d) ensure that the affected social worker has a copy of the complaint; and
- (e) carry out such detailed inquiry as it considers appropriate.

(7) At any stage of an inquiry or investigation, the Inquiry Panel or the Board, as the case may be, may request such documents, information or opinion as it considers necessary to determine the facts of the case. (EC69/92) *Information*

11. (1) Wherever appropriate, the Inquiry Panel shall commend to the complainant and affected social worker the alternative of mediation, that is, an effort to resolve the complaint informally without a detailed inquiry or full investigation. *Alternative of mediation*

(2) If mediation resolves the complaint or allegation, the Inquiry Panel shall so notify the Board in writing, and if the Board is satisfied, there need be no further action on the complaint. *Notification to Board*

Further investigation	(3) Where mediation fails, the Inquiry Panel shall proceed with a detailed inquiry, or the Board shall proceed with a full investigation, as the case may be. (EC69/92)
Parties to be heard	12. (1) During the detailed inquiry, and at the discretion of the Inquiry Panel also during the preliminary inquiry, the Inquiry Panel shall ensure that any complainant and the affected social worker are each permitted to be heard and to submit evidence.
Co-operation	(2) The affected social worker shall, if required, give full co-operation to the Inquiry Panel, including the provision, in accordance with the Code of Ethics, of such records within the social worker's control as may be requested. (EC69/92)
Action pending outcome	13. On recommendation from the Inquiry Panel, at any stage of the inquiry or investigation process, if <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 social worker's clients or to the general public; and (c) the Board so decides without 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 social worker is under way; (e) suspend or impose a condition on the certificate of the affected social worker; or (f) do both (d) and (e). (EC69/92)
No simultaneous inquiry	14. The Inquiry Panel shall not inquire simultaneously into the conduct of another social worker because of evidence which appears during the inquiry concerning the affected social worker, but instead shall if necessary conduct a separate inquiry. (EC69/92)
Inquiry Panel records	15. (1) The Inquiry Panel shall keep complete and accurate records of the information it gathers related to the complaint or allegation.
Confidentiality of records	(2) The Registrar shall keep these records confidential and not give access to them to persons other than the Board, the Inquiry Panel or its advisers or agents, except with the express consent of both the affected social worker and the Inquiry Panel.
Completed file	(3) The completed file of an Inquiry Panel inquiry, a full investigation and decision shall be kept for at least six years after the Board's decision and thereafter at its discretion.

(4) The file in the case of a revoked or suspended certification shall be kept permanently. Permanent file

(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 social worker. (EC69/92) Accessibility of records

16. The Inquiry Panel shall in writing report the findings of fact and conclusions of its detailed inquiry to the Board, which shall provide a copy to the affected social worker. (EC69/92) Report

17. If the Board believes that the report of the detailed inquiry does not warrant a full investigation with hearing, the Board shall dismiss the complaint and proceed no further on it, and shall so notify the affected social worker in writing within seven days of the decision. (EC69/92) Complaint dismissed

III. FULL INVESTIGATION WITH HEARING - JUDGMENT

18. (1) If the Board believes that the report of the detailed inquiry warrants it, the Board shall hold a full investigation which gives the affected social worker the formal opportunity to be heard by it. Full investigation with hearing

(2) The Board shall, by ten days written notice delivered by hand or sent to the person's last known address, inform the affected social worker of the time and place of the hearing, and of the right, if desired, to be represented at the hearing by legal counsel. Notification of hearing and right to legal counsel

(3) If the affected social worker does not take the opportunity or otherwise fails, without leave, to attend the announced hearing, the Board may nonetheless proceed. If person does not attend

(4) The hearing shall be closed, but the Board may, if it considers appropriate and constructive, Hearing closed

- (a) allow the complainant, if any, to attend and to speak;
- (b) ask other persons to attend for the purpose of providing evidence; and
- (c) permit other persons to attend.

(5) The Board shall make the rules, reflecting principles of natural justice, under which a hearing is to be conducted, and it shall inform the affected social worker in writing of the rules in advance of the hearing. (EC69/92) Determination of procedures

19. Upon conclusion of a formal hearing, the Board shall fully consider the report of the Inquiry Panel together with such further evidence and information as has emerged from the hearing, and shall by vote determine Judgment by Board

- (a) whether to accept the findings of fact of the Inquiry Panel;
- (b) whether to accept, reject or modify the conclusions of the Inquiry Panel; and
- (c) the remedial or disciplinary action, if any, to be taken. (EC69/92)

Notification of
outcome

20. The Board shall forthwith notify the affected social worker in writing of its decisions, and any requirements of the affected social worker, specifying the time allotted for compliance and informing the affected social worker, where the decision is likely to affect livelihood, of the right of appeal under section 14 of the Act. (EC69/92)

Compliance

21. Subject to the appeal provisions of section 14 of the Act, the social worker 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. (EC69/92)

Re-instatement

22. The Board may, upon application, re-instate a suspended or revoked certificate of registration according to subsection 14(3) of the Act and according to such terms and conditions as it considers appropriate for protecting the public interest. (EC69/92)

IV. REMEDIAL MEASURES AND PENALTIES

Board to determine
remedy or penalty

23. 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 the regulations, the Board shall determine a measure of remedy or penalty which it considers appropriate to the nature and degree of the failure. (EC69/92)

Available measures

24. (1) Disciplinary measures may include the following:

- (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 certification limiting the scope or independence of practice;
- (e) suspension of the certification for a fixed period of time or until a condition has been fulfilled;
- (f) revocation of the certification;
- (g) a combination of the above measures.

Idem

(2) As part of the disciplinary measures, the Board may require a person found guilty to pay the cost or part of the cost of the investigation and hearing. (EC69/92)

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

- (a) the extent of the affected social worker's awareness of his or her fault;
- (b) the degree of risk or harm to the client;
- (c) the potential further risk to the public;
- (d) the likely effect upon the disciplined person's ability to earn a livelihood;
- (e) any restitution or remediation voluntarily undertaken by the affected social worker.

(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. (EC69/92) *Idem*

26. (1) Subject to subsection 10(7) and section 13, the Board shall, in all but unusual cases, keep secret any investigation and disciplinary or remedial measures unless otherwise requested by the affected social worker; 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. Confidentiality

(2) The Board may, if it considers it appropriate, disclose the outcome of the case to the complainant. Disclosure to complainant

(3) Where a certificate is suspended or revoked, or where a condition is imposed limiting the scope or independence of practice, the Board shall so inform employers, regulatory bodies and others as may be applicable in order to prevent unauthorized practice. Notification of employers, etc.

(4) In 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. Outcome made public

(5) When the certificate of an affected social worker is re-instated, the Board shall notify all persons to whom a notice of original action was sent in order to restore to the social worker opportunities for authorized practice. (EC69/92) Notification of re-instatement

V. MISCELLANEOUS

27. No action lies against the Inquiry Panel, its members or persons acting in accordance with its directions, for any thing done in good faith with respect to its functions under these regulations. (EC69/92) Liability of Inquiry Committee

Member
disqualified

28. A member of the Board, of the Committee on Standards and Discipline, or of the Inquiry Panel shall withdraw from any official involvement as a member in any hearing or disciplinary matter of which that person is the subject or where such involvement would create a conflict of interest. (EC69/92)

Statistical
information

29. (1) The Board may compile and publish statistical information with regard to the volume and nature of 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.

Idem

(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. (EC69/92)