



BILL NO. 201

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

An Act Respecting the Practice of Counselling Therapists

CHAPTER 37
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 25, 2008**

The Honourable Chris A. d'Entremont
Minister of Health

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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An Act Respecting the Practice of Counselling Therapists

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Counselling Therapists Act*.

2 In this Act,

(a) “appraisal or assessment” means selecting, administering, scoring and interpreting instruments designed to assess an individual's attitudes, abilities, achievements, interests and personal characteristics and the use of methods and techniques, including interviewing and direct observation, for understanding and evaluating human behaviour in relation to coping with, adapting to or changing life situations;

(b) “Association” means the Nova Scotia Association of Counselling Therapists;

(c) “Board” means the Board of the College;

(d) “by-law” means a by-law of the College;

(e) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal board or commission of inquiry;

(f) “College” means the Nova Scotia College of Counselling Therapists;

(g) “competence” means the ability to integrate and apply the knowledge, skills and judgement required to practise safely and ethically in a designated role and practice setting and includes both entry level and continuing competencies;

(h) “complaint” means a notice in writing indicating possible professional misconduct, conduct unbecoming the profession, incompetence or incapacity of a member;

(i) “Complaints Committee” means the Complaints Committee established by this Act;

(j) “consulting” means the application of scientific or well-established principles and procedures in counselling and human development to provide assistance in understanding and solving current problems that a consultee may have in relation to a third party, whether an individual, a group or an organization;

(k) “continuing-education credits” means credits approved by the Board for programs, conferences and other activities of a continuing-education nature;

(l) “counselee” means an individual, group, community or population who is the recipient of counselling-therapy services;

(m) “counselling” means assisting counselees through the counselling relationship, using a combination of mental health and human development principles, methods and techniques to achieve mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment through the counselee's lifespan;

(n) “counselling therapist” means a counselling therapist whose name appears on the Register and who is licensed to practise counselling therapy;

(o) “counselling-therapy education program” means a master's level counselling degree or an equivalent degree program as approved by the Board;

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

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

(r) “incapacity” means the status whereby a respondent, at the time of the subject-matter of a complaint, suffered from a medical, physical, mental or emotional condition, disorder or addiction that rendered the respondent unable to practise with reasonable skill or judgement or that may have endangered the health or safety of counselees;

(s) “incompetence” means the display of a lack of knowledge, skill or judgement in the respondent's care of a counsellee or delivery of counselling-therapy services that, having regard to all the circumstances, rendered the respondent unsafe to practise at the time of such care of the counsellee or delivery of counselling-therapy services or that renders the respondent unsafe to continue in the practice of counselling therapy without remedial assistance;

(t) “individual scope of practice” means the roles, functions and accountabilities that an individual is educated and authorized to perform;

(u) “investigator” means a person designated by the Registrar to conduct or supervise an investigation into a complaint;

(v) “judge” means a judge of the Supreme Court of Nova Scotia;

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

(x) “licence” means an active-practising licence with or without conditions or restrictions or a temporary licence issued in accordance with this Act and the regulations;

(y) “licensing sanction” means

(i) the imposition of conditions or restrictions on a licence by the Complaints Committee or the Professional Conduct Committee or their equivalent from another jurisdiction,

(ii) a consent reprimand ordered by the Complaints Committee or its equivalent from another jurisdiction,

(iii) a reprimand issued by the Professional Conduct Committee or its equivalent from another jurisdiction,

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

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

(z) “member” means a person whose name is entered in the Register and, for the purpose of Sections 13 to 30 and the regulations, includes a person who holds a temporary licence at the time of an incident giving rise to a complaint;

(aa) “party” means the College or a respondent, as the context requires;

(ab) “practice of counselling therapy” means rendering to individuals, couples, families, groups, organizations, corporations, schools or other institutions, government agencies or the general public a service that integrates diverse models of human behaviour, such as clinical, pathology, wellness, cross-cultural and other recognized models through a combination of counselling, appraisal and assessment, consulting, referral and research;

(ac) “profession” means the profession of counselling therapy;

(ad) “Professional Conduct Committee” means the Professional Conduct Committee established by this Act;

(ae) “professional conduct process” means the processes described in Sections 31 to 54 and in the “Professional Conduct” part of the regulations;

(af) “professional corporation” means one or more counselling therapists incorporated pursuant to the laws of the Province for the purpose of engaging in the practice of counselling therapy;

(ag) “professional misconduct” includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional and, without limiting the generality of the foregoing, may include

(i) failing to maintain the standards for the practice of counselling therapy,

(ii) failing to uphold the code of ethics adopted by the College,

(iii) abusing a person verbally, physically, emotionally or sexually,

(iv) misappropriating personal property, drugs or other property belonging to a counsellee or a member's employer,

(v) wrongfully abandoning a counsellee,

(vi) neglecting to provide care to a counsellee,

(vii) failing to exercise appropriate discretion in respect of the disclosure of confidential information,

(viii) falsifying records,

(ix) inappropriately using the professional status of counselling therapist for personal gain,

(x) promoting for personal gain any drug, device, treatment, procedure, product or service that is unnecessary, ineffective or unsafe,

(xi) publishing, or causing to be published, any advertisement that is false, fraudulent, deceptive or misleading, and

(xii) 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 this Act, including using fraudulently procured credentials;

(ah) “public representative” means a member of the Board or of a committee who is not a member of the College;

(ai) “referral” means evaluating and identifying needs of a counsellee to determine the advisability of referral to other specialists, informing the counsellee of such judgment and communicating as requested or deemed appropriate to such referral services;

(aj) “Register” means the Register established pursuant to this Act;

(ak) “registered counselling therapist re-entry program” means a program approved by the Board that tests counselling-therapy knowledge and provides for a period of preceptored clinical counselling-therapy practice;

(al) “Registrar” means the Registrar of the College appointed pursuant to this Act;

(am) “Registration Appeal Committee” means the Registration Appeal Committee established by this Act;

(an) “registration examination” means such examination or examinations as may be approved from time to time by the Board in the by-laws as a prerequisite for qualification as a counselling therapist;

(ao) “Re-instatement Committee” means the Re-instatement Committee established by this Act;

(ap) “research” means a systematic effort to collect, analyze and interpret quantitative or qualitative data that describe how social characteristics and behaviour, emotion, cognitions and interpersonal transactions among individuals and organizations interact;

(aq) “respondent” means the member who is the subject of a complaint or the subject of an appeal pursuant to Section 19;

(ar) “roster” means the record of the category of licensing established pursuant to this Act or the regulations;

(as) “scope of practice of the profession” means the roles, functions and accountabilities that counselling therapists are educated and authorized to perform;

(at) “settlement proposal” means a proposal for the settlement of a complaint as prescribed in the regulations;

(au) “standards for the practice of counselling therapy” means the minimal professional practice expectations for any counselling therapist in any setting or role, approved by the Board or otherwise inherent in the profession;

(av) “temporary licence” means a temporary licence issued pursuant to this Act;

(aw) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not, and includes the College or any representative of the College.

COLLEGE

3 (1) The Association, a society incorporated under the *Societies Act*, is hereby continued as a body corporate under the name of the Nova Scotia College of Counselling Therapists and is composed of its members.

(2) All assets and property held by the Association become the assets and property of the College at the time of the coming into force of this Act.

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

4 In order to

- (a) serve and protect the public interest;
- (b) preserve the integrity of the profession; and
- (c) maintain public confidence in the ability of the profession to regulate itself,

the College shall

- (d) govern its members in accordance with this Act and the regulations;
- (e) establish, develop and promote standards of practice among its members;
- (f) establish, develop and promote a code of ethics for its members;
- (g) approve continuing-education credits for the benefit of its members;
- (h) subject to clauses (d) to (g), and in the public interest, advance and promote the practice of counselling therapy; and
- (i) do such other lawful acts and things as are incidental to the attainment of the purposes and objects set out in this Section.

5 In addition to any other power conferred by this or any other Act, the College may do such things as it considers appropriate to advance the objects of the College and, without limiting the generality of the foregoing, may

- (a) purchase, take in, lease, exchange, hire, construct and otherwise acquire and hold, sell, mortgage, hypothecate, lease out or otherwise deal with any real or personal property;
- (b) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, warrants and other negotiable and transferable instruments;
- (c) engage such agents and employees as it, from time to time, deems expedient;
- (d) expend the moneys of the College in the advancement of its objects in such manner as it deems expedient;
- (e) establish and maintain such offices and agencies as it deems expedient;
- (f) invest and deal with any moneys and funds of the College that are not immediately required in such manner as it deems expedient;

(g) improve, manage, develop, exchange, dispose of, turn to account or otherwise deal with the real or personal property of the College;

(h) borrow money for the use of the College on its credit, limit or increase the amount to be borrowed, issue bonds, debentures, debenture stock and other securities on the credit of the College and pledge or sell such securities for such sums or at such prices as deemed expedient;

(i) secure the repayment of money borrowed, in such manner and upon such terms and conditions as it considers fit, and, in particular, by the execution and delivery of mortgages of all or any part of the real or personal property of the College, both present and future;

(j) do such things as are incidental or necessary to the exercise of the powers referred to in clauses (a) to (i).

6 (1) There shall be an annual meeting of the College at such time and place as determined by the Board.

(2) An annual report must be distributed at or before the annual meeting for review by the membership and must include a report by an auditor.

(3) Auditors shall be recommended by the Board but are subject to the approval of the College at the annual meeting.

7 (1) The Board shall govern the College and manage its affairs and may take any action consistent with this Act and the regulations that it considers necessary for the promotion, protection, interest or welfare of the College, including

(a) the setting of fees payable by applicants and members;

(b) approving the processes for establishing, revising and monitoring the annual budget;

(c) submitting to each annual general meeting of the College an audited financial statement of the College's operations for the past fiscal year;

(d) appointing an auditor for the College; and

(e) approving proposed changes to this Act, the regulations and the by-laws.

(2) The Board may take any action consistent with this Act by resolution.

8 (1) The Board is composed of

(a) the Chair, the Vice-chair, the past Chair, the Secretary and the Treasurer, each of whom must hold a licence;

(b) no fewer than three and no more than six members, each of whom holds a licence; and

(c) no fewer than two and no more than three public representatives appointed by the Governor in Council who

(i) are not members of the College, and

(ii) have shown an interest in serving on the Board.

(2) Persons on the Board shall be elected or appointed or succeed to office in the manner prescribed by the by-laws.

(3) Notwithstanding subsection (2), public representatives on the Board continue to hold office until their successors are appointed or until such time as they are re-appointed.

(4) Notwithstanding subsection (1), the persons who at the coming into force of this Act constitute the Board of Directors of the Association constitute the Board until the election or appointment of members pursuant to subsection (2).

(5) Elections required by this Section must be held no later than twelve months after the coming into force of this Act.

9 A majority of the Board constitutes a quorum.

10 (1) The Board shall appoint a Registrar of the College and the Board shall determine the term of office and the duties of the Registrar.

(2) The Registrar may delegate any functions assigned to the Registrar by this Act, the regulations or the by-laws.

(3) The Registrar is a non-voting member of the Board.

11 The Board may make by-laws not inconsistent with this Act

(a) respecting fees payable by applicants and members as approved by the Board;

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

(c) respecting fees and expenses payable to persons sitting on the Board and any other committees established for the purpose of attending to the business of the College;

(d) establishing a Nominations Committee including its composition and duties;

(e) establishing the timing and manner of the election or appointment to the Board;

(f) establishing the eligibility for election or appointment to the Board;

(g) respecting the terms of office of the persons sitting on the Board, the manner in which vacancies on the Board may be filled and the manner of removing Board members;

(h) prescribing the manner in which resolutions are forwarded to the Board;

(i) prescribing the roles of the Chair and Chair elect;

(j) respecting the holding of Board meetings, including required meetings, the notice for such meetings, the procedure to be followed and the manner of voting;

(k) respecting the establishment of, and quorum for, committees as may be appointed by the Board and providing for the holding and conduct of meetings of such committees;

- (l) approving examinations from time to time and other matters that are a prerequisite to qualifying an individual as a counselling therapist;
- (m) respecting the seal of the College;
- (n) respecting the location of the head office of the College;
- (o) respecting the approval of forms required for the conduct of the business of the College;
- (p) approving the code of ethics and standards for the practice of counselling therapy; and
- (q) respecting all other things necessary for the administration of the affairs of the College.

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

- (a) regulating the registration, licensing, discipline and re-instatement of members as counselling therapists;
- (b) respecting conditions for which temporary licences may be issued, including designations authorized for use by holders of temporary licences;
- (c) creating one or more rosters of members and prescribing the rights, privileges, qualifications and obligations of the members of each roster and prescribing the conditions for the entry and maintenance of members' names in each roster;
- (d) creating categories of affiliation with the College, including honorary and student categories, and prescribing the rights, privileges, qualifications and obligations of the persons in these categories and prescribing the conditions for the entry and maintenance of such persons' names in these categories;
- (e) setting requirements for the approval of continuing-education credits;
- (f) setting requirements for professional liability insurance or other forms of malpractice coverage or liability protection;
- (g) prescribing tasks authorized to be performed under the supervision or control of a counselling therapist and the degree of supervision and control required;
- (h) respecting the information to be included on the Register;
- (i) respecting the revocation or suspension of licences issued pursuant to this Act and the re-instatement of such licences and allowing for conditions, limitations or restrictions to be attached to a re-instated licence;
- (j) allowing for an award of costs on a solicitor client or other basis;
- (k) providing that the licence of a member be suspended without notice or investigation upon contravention of any regulation that requires the member to pay a fee, to file a document or do any other act by a specified or ascertainable date and providing for the re-instatement of a licence so suspended upon payment of such fee as determined by the Board;

(l) respecting the ability of the Registrar, the Complaints Committee and the Professional Conduct Committee to impose a fine where members have engaged in the practice of counselling therapy while not holding a current licence;

(m) respecting the reporting and publication of decisions in disciplinary matters;

(n) providing for the audits of some or all persons who hold a licence and their practice environments;

(o) prescribing legislation pursuant to Section 41, the violation of which may require a member to attend a hearing;

(p) prescribing the requirements and processes for incorporation of counselling therapists;

(q) providing for the retention and destruction of counsellee records maintained by a custodian appointed pursuant to this Act and processes and procedures to be utilized by the custodian;

(r) defining any word or expression used but not defined in this Act;

(s) further defining any word or expression defined in this Act;

(t) governing such other matters as the Board considers necessary or advisable for the effective discharge of its functions or the exercise of its powers.

(2) The exercise by the Board of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

(3) All regulations and by-laws of the Board must be available for inspection by any person, free of charge, at the head office of the College at all reasonable times during business hours.

REGISTRATION AND LICENSING

13 (1) The Board shall keep a Register in which shall be entered the name of all persons who are entitled pursuant to this Act to be registered in the Register.

(2) The Register shall include such other information as may be required by the regulations.

(3) The Board shall cause to be kept a record available to the public showing

(a) the name and registration number of every member;

(b) any conditions or restrictions on such person's licence if the Registrar determines it is in the public interest to have such conditions or restrictions available to the public; and

(c) any licensing sanctions imposed on a member that are not otherwise subject to a publication ban.

14 (1) The categories of members are as set out in the regulations.

(2) The Board shall cause to be maintained separate rosters for each category of member as provided by the regulations.

15 (1) The Board shall appoint a Registration Committee, the membership of which consists of one public representative and two counselling therapists from the licensed roster.

(2) The Board shall appoint one of the members of the Registration Committee as the Chair of the Committee.

(3) The majority of the Registration Committee constitutes a quorum.

(4) The Registration Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

(5) Each member of the Registration Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

16 (1) The Registrar shall register and shall issue a licence to a person who has completed a counselling-therapy education program and who meets the criteria for registration and entry in the licenced roster as set out in the regulations.

(2) The Registrar may impose conditions or restrictions on the licence with the consent of the member if such conditions or restrictions are necessary in the interest of the public.

(3) Where conditions or restrictions are imposed by the Registrar pursuant to subsection (2), the Registrar shall issue to the applicant a licence with conditions or restrictions.

(4) Where the Registrar imposes conditions or restrictions pursuant to subsection (2), such conditions or restrictions are not licensing sanctions.

17 (1) Where a person

(a) fails to meet the requirements or conditions for a licence, with or without conditions or restrictions as prescribed by the regulations; or

(b) is registered or licensed to practise counselling therapy in another jurisdiction,

and it is otherwise consistent with the objects of the College but impractical to issue a licence, with or without conditions or restrictions, the Registrar, upon payment of the prescribed fee, may approve or refuse an application for a temporary licence and shall notify the applicant accordingly.

(2) A temporary licence issued pursuant to subsection (1) must be issued for a specified period of time, not to exceed twelve months in total.

(3) The Registrar may impose conditions or restrictions on a temporary licence if such conditions or restrictions are necessary in the interest of the public.

(4) Where conditions or restrictions are imposed by the Registrar pursuant to subsection (3), the Registrar shall issue to the applicant a temporary licence with conditions or restrictions.

(5) Where the Registrar imposes conditions or restrictions pursuant to subsection (3), such conditions or restrictions are not licensing sanctions.

(6) The College shall maintain a roster of temporary licences and a roster of temporary licences with conditions or restrictions.

(7) The decision of the Registrar respecting the issue of a temporary licence or a temporary licence with conditions or restrictions is final.

18 The Registrar shall register a person as a counselling therapist candidate if the person meets the criteria for registration as a counselling therapist candidate pursuant to the regulations.

19 Where an applicant

- (a) has been refused registration; or
- (b) has been refused a licence,

the Registrar shall give written reasons for such decision and the applicant may, by written notice, appeal that decision to the Registration Appeal Committee within thirty days of receipt of such written notice.

20 (1) The Board shall appoint a Registration Appeal Committee, the membership of which consists of one public representative and two counselling therapists from the licenced roster.

(2) The Board shall appoint one of the members of the Registration Appeal Committee as the Chair of the Committee.

(3) A majority of the Registration Appeal Committee constitutes a quorum.

(4) The Registration Appeal Committee shall perform such functions as are set out in this Act, the regulations and the by-laws.

(5) Each member of the Registration Appeal Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

21 (1) The Registration Appeal Committee, upon receipt of an appeal pursuant to Section 19, shall

- (a) set a date for a hearing of the appeal, which shall be not later than sixty days following receipt of the written notice of appeal;
- (b) serve written notice of the date, time and place for the hearing of the appeal upon the appellant and the Registrar; and
- (c) advise the appellant of the right to

- (i) be represented by legal counsel or another representative, at the expense of the appellant,
- (ii) disclosure of any information to be provided to the Registration Appeal Committee, and
- (iii) a reasonable opportunity to present a response and make submissions.

(2) The parties to an appeal before the Registration Appeal Committee are the College and the appellant.

(3) Evidence is not admissible before the Registration Appeal Committee unless, at least ten days before the appeal, the opposing party has been given

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; and
- (c) in the case of evidence of any other witness, the identity of the witness.

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

(5) In a proceeding before the Registration Appeal Committee, the parties have the right to

- (a) the opportunity to present evidence and make submissions, including the right to cross examine witnesses; and
- (b) receive written reasons for a decision within a reasonable time.

(6) At a hearing before the Registration Appeal Committee, all material relied upon by the Registrar in making the decision that is the subject of the appeal must be provided to the Committee and to the appellant.

(7) In addition to the material provided to the Registration Appeal Committee pursuant to subsection (6), either party may present additional evidence to the Committee and call witnesses.

(8) The testimony of witnesses at a hearing before the Registration Appeal Committee must be taken under oath or affirmation.

22 (1) The Registration Appeal Committee, in accordance with the evidence it receives when hearing an appeal, may make any determination that, in its opinion, ought to have been made by the Registrar or the Registration Committee.

(2) The Registration Appeal Committee shall give its decision in writing and shall send to the applicant a copy of the written decision by registered mail or personal service.

(3) The decision of the Registration Appeal Committee is final.

23 (1) No person shall take or use the designation “Counselling Therapist”, “Registered Counselling Therapist” or “RCT”, or any derivation or abbreviation thereof, in the Province, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to use the designation unless such person

- (a) holds a licence with or without restrictions;
- (b) is a holder of a temporary licence with or without restrictions or conditions; or
- (c) is otherwise authorized to use such designation and to engage in the practice of counselling therapy as set out in this Act or the regulations.

(2) No person shall take or use the designation “Counselling Therapist Candidate” or “Registered Counselling Therapist Candidate” or any derivation or abbreviation thereof in the Province, either alone or in combination with other words, letters or descriptions to imply that the person is entitled to use the designation unless such person meets the criteria for the issuing of a temporary licence (counselling therapist candidate) pursuant to this Act and the regulations and is authorized pursuant to the regulations to engage in the practice of counselling therapy.

24 A statement certified under the hand of the Registrar respecting the membership and entry in the appropriate roster of a person's name is admissible in evidence as *prima facie* proof of that person's entry in such roster.

25 Where the right of a person to practise as a counselling therapist has been limited by the imposition of conditions or restrictions pursuant to this Act or the regulations, particulars of all conditions or restrictions imposed on that person must be noted in the records of the College and may be disclosed to the public in accordance with this Act.

26 The Registrar shall make a change in the Register if

- (a) the member's name has been entered in error;
- (b) notification is received of the member's death;
- (c) the registration of the member has been revoked;
- (d) the Complaints Committee, as part of an informal resolution of a complaint, or the Professional Conduct Committee authorizes the resignation of a member from the Register; and
- (e) the member has requested in writing and the Registrar, as part of an informal resolution of a complaint or otherwise, has approved the resignation of the member,

and such person ceases to be a member of the College.

27 (1) The Registrar shall cause the removal of the name of a member from the appropriate roster

- (a) if the member no longer meets the criteria for entry on the relevant roster;
- (b) at the request of the member, upon surrendering any licence held by the member;

- (c) if notification is received of the member's death;
- (d) for non-payment of fees or other assessments levied under this Act or the regulations;
- (e) if the member has been suspended, for the term of the suspension;
- (f) if the registration of the member has been revoked; or
- (g) if the Complaints Committee, the Professional Conduct Committee or the Registrar authorizes the resignation of a member from the Register.

(2) The name of a person removed from the appropriate roster pursuant to clauses (1)(a) to (e) must be restored upon

- (a) payment of the prescribed fee; and
- (b) compliance by the person with this Act and the regulations.

(3) The name of a person removed from the Register pursuant to clauses 26(d) or (e) or the appropriate roster pursuant to clause (1)(h) may only be restored if

- (a) the Committee or the Registrar authorizing the resignation of the member permitted the member the opportunity to re-apply for membership in the College; and
- (b) the Re-instatement Committee determines, on such conditions or with such restrictions as it directs, that the registration or licence should be re-instated.

28 (1) A member who engages in the practice of counselling therapy outside the Province and who was subject to any disciplinary findings while outside the Province or has outstanding complaints from outside the Province shall not engage in the practice of counselling therapy upon returning to the Province before providing the Registrar with notice of such disciplinary findings or complaints and receiving from the Registrar a notice authorizing the member to resume the practice of counselling therapy in the Province.

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

29 (1) Every person who

- (a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act or the regulations;
- (b) engages in the practice of counselling therapy in violation of any condition or limitation contained in the person's licence; or
- (c) otherwise contravenes this Act or the regulations,

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

(2) The *Summary Proceedings Act* applies in addition to any penalty otherwise provided for in this Act or the regulations.

(3) All fines and penalties payable under this Act or under the *Summary Proceedings Act* as a result of a prosecution by or on behalf of the College belong to the College.

(4) Any information to be laid pursuant to this Act or the *Summary Proceedings Act* may be laid by the Registrar or any person authorized by the Registrar.

(5) In a prosecution of an offence contrary to this Act or the regulations, the onus to prove that a person accused of an offence has the right to use a designation protected by this Act is on the person accused.

(6) Where a violation of this Act or the regulations by a person or employer continues for more than one day, the offender is guilty of a separate offence for each day that the violation continues.

30 (1) In the event of a threatened or continuing violation of this Act or the regulations, the College may apply to a judge for an injunction to restrain the person from continuing or committing the violation and, where the judge deems it to be just, the judge may grant such an injunction.

(2) A judge may, on application, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a violation of this Act or the regulations.

(3) A judge may make such orders as to costs as the judge considers appropriate in any proceedings pursuant to this Section.

PROFESSIONAL CONDUCT

31 (1) In accordance with the objects of the College, the professional conduct process must seek to inhibit professional misconduct, conduct unbecoming a counselling therapist, incompetence and incapacity by investigating, on its own initiative or on the complaints of others, alleged instances of such misconduct, conduct unbecoming a counselling therapist, incompetence or incapacity and, when appropriate, disposing of the matter or matters in accordance with the regulations.

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

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

33 (1) The Board shall appoint a Complaints Committee comprised of such number of members and public representatives as determined by the Board.

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

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

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

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

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

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

(8) Any two persons from the panel appointed pursuant to subsection (5), regardless of whether such persons are members or public representatives, constitute a quorum of the Complaints Committee.

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

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

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

- 34** **(1)** A complaint may be initiated by
- (a) any body corporate or association;
 - (b) the Registrar;
 - (c) a committee of the College; or
 - (d) any other person.

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

35 The Complaints Committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

- 36** **(1)** The Complaints Committee may set its own procedure for meetings.

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

37 Upon receipt of a complaint, the complaint must be processed in accordance with the regulations.

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

39 (1) A complaint must be disposed of in accordance with the regulations.

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

(3) In a proceeding before the Complaints Committee, a respondent has the right to

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

(b) disclosure of the complaint, any written reports of the investigator 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.

40 (1) Where it is reasonably necessary to protect the public interest, the Complaints Committee may, at its discretion, direct the Registrar to

(a) suspend a licence;

(b) impose restrictions or conditions on a respondent's licence; or

(c) where a person does not hold a current licence, suspend the ability of the person to obtain a licence,

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

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

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

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

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

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

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

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

(b) disclosure of the complaint, any written report of an investigator provided to the Committee and any other document produced or received by the Committee; and

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

(6) Where a Complaints Committee issues an interim suspension or imposes conditions or restrictions on a respondent's licence, the Committee shall provide a copy of the decision to the complainant and the respondent and determine whether any aspects of the Committee's decision should be provided to other affected individuals, other counselling-therapy jurisdictions, any past, present or intended employer of the respondent or the public.

41 (1) Notwithstanding anything contained in this Act or the regulations, where a person

(a) has been charged with, pleaded guilty to, been convicted or found to be guilty of any offence in or out of Canada that is inconsistent with the proper professional behaviour of a member, including a conviction under

(i) the *Criminal Code* (Canada),

(ii) the *Controlled Drug and Substances Act* (Canada), or

(iii) such other legislation as prescribed in the regulations, unless a pardon has been issued;

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

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

(d) is the subject of an investigation or disciplinary process in any jurisdiction or in another regulated profession,

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

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

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

(4) When a person holding a licence meets the criteria pursuant to subsection (1), that person shall report the matter to the Registrar immediately.

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

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

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

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

(c) the Registrar may disclose information with respect to the complaint or a matter before a committee to an extra-provincial counselling-therapy regulatory body when it is relevant and concerns the fitness of the member for membership in the extra-provincial counselling-therapy regulatory body; and

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

(3) A witness in any legal proceeding, whether a party thereto or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Professional Conduct Committee or the Re-instatement Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for purposes of the professional conduct process, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Professional Conduct Committee or the Re-instatement Committee.

(4) Subsection (3) does not apply to documents or records that have been made available to the public by the College.

(5) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or the Professional Conduct Committee is not admissible in a civil proceeding other than an appeal or review pursuant to this Act.

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

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

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

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

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

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

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

(8) Any three persons from the panel appointed pursuant to subsection (5), regardless of whether such persons are members or public representatives, constitute a quorum of the Professional Conduct Committee.

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

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

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

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

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

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

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

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

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

47 Each person on the Professional Conduct Committee has all the rights, powers and privileges of a commissioner appointed pursuant to the *Public Inquiries Act*.

48 (1) A proceeding held by the Professional Conduct Committee must be conducted in accordance with the regulations.

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

- (a) be represented by legal counsel or another representative;
- (b) present evidence and make submissions, including the right to cross examine witnesses; and
- (c) receive written reasons for a decision within a reasonable time.

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

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, a copy of the expert's written report or, where there is no written report, a written summary of the evidence; or
- (c) in the case of evidence of any other witness, the identity of the witness.

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

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

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

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

50 (1) The Board shall appoint a Re-instatement Committee, comprised of not fewer than three and not more than five members of the Board, at least one of whom must be a public representative.

(2) The Board shall appoint the Chair of the Re-instatement Committee.

(3) The Re-instatement Committee shall, in the circumstances set out in this Act and the regulations, review applications for re-instatement of registration and licence, and shall perform such other duties as set out in this Act and the regulations.

(4) A quorum of the Re-instatement Committee consists of any three members of the Committee, regardless of whether such members are members or public representatives.

(5) Applications for re-instatement must proceed in accordance with the regulations.

(6) Where a member's licence has been re-instated pursuant to this Section, the Re-instatement Committee, in its discretion, shall determine whether publication of the re-instatement is required in the interest of the public.

(7) The Re-instatement Committee has all the powers conferred by this Act and the regulations in the discharge of its functions as well as the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*.

(8) In a proceeding before the Re-instatement Committee, a member has the right to

(a) be represented by legal counsel or another representative at the member's expense;

(b) disclosure of any information to be provided to the Committee; and

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

(9) Evidence is not admissible before the Re-instatement Committee unless, at least ten days before the hearing, the opposing party has been given

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

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

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

(10) Notwithstanding subsection (9), the Re-instatement Committee may, in its discretion, allow the introduction of evidence that is otherwise inadmissible under subsection (9) and may make directions it considers necessary to ensure that a party is not prejudiced.

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

- (a) make such entries on the records of the College and on the licence of the member as set out in the regulations;
- (b) publish such information on the website of the College and in official publications of the College as set out in the regulations;
- (c) notify other counselling-licensing bodies as set out in the regulations; and
- (d) provide such information to individuals or the public as set out in the regulations.

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

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

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

- (a) make the appropriate entries in the records of the College;
- (b) where registering bodies in other Canadian counselling-therapy jurisdictions had previously been informed of the suspension, conditions or restrictions, notify such registering bodies of the lifting of such suspension, conditions or restrictions; and
- (c) notify such other persons as directed by the committee that initially imposed the suspension, conditions or restrictions.

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

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

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

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

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

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

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

PROFESSIONAL INCORPORATION

55 Nothing in this Act prevents the incorporation of a counselling therapist, but every counselling therapist continues to be personally responsible for compliance with this Act and the regulations notwithstanding any such incorporation.

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

57 Where a member is engaged in the practice of counselling therapy as an incorporated entity, the existence of the incorporated entity does not affect, modify or limit any law or standard applicable to the confidential or ethical relationship between a counselling therapist and a counsellee.

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

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

60 (1) Every incorporated entity engaged in the practice of counselling therapy that contravenes this Act or the regulations is guilty of an offence and liable to the same penalties as any person who is guilty of an offence pursuant to this Act.

(2) Sections 29 and 30 apply *mutatis mutandis* to all incorporated entities engaged in the practice of counselling therapy.

GENERAL

61 (1) A member has a duty to report to the Registrar if the member has reasonable grounds to believe that another member of the College

- (a) has engaged in professional misconduct, incompetence or conduct unbecoming the profession;
- (b) is incapacitated; or
- (c) is practising in a manner that otherwise constitutes a danger to the public.

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

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

63 (1) No action for damages or other relief lies against the College, the Board, the persons on the Board, committees or subcommittees of the College or the Board, or the persons on the committees or subcommittees, or the Registrar, officers, agents or employees of the College,

- (a) for any act or failure to act or any proceeding initiated or taken in good faith under this Act, or in carrying out the duties or obligations under this Act; or
- (b) for any decision, order or resolution made or enforced in good faith under this Act.

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

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

64 Notwithstanding this Act or the regulations, for a period of one year following the coming into force of this Act, every person who, on the coming into force of this Act, has received the certification "Registered Counselling Therapist" from the Association and has practised in the Province in the previous twenty four months, is deemed eligible for registration with the College, and is eligible for the issuing of a licence upon payment of the appropriate fee and the submission of the appropriate application.

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

66 Nothing in this Act prohibits the carrying out of the practice of counselling therapy by any person who does not take or use the designation “Counselling Therapist”, “Registered Counselling Therapist”, “Registered Counselling Therapist Candidate” or “RCT”, or any derivation or abbreviation thereof, or describes the person's activities as “counselling therapy” in any advertisement or publication, including business cards, websites or signage.

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