



## **Fitness-to-Practise Policy Manual**

|                              |  |                 |                |
|------------------------------|--|-----------------|----------------|
| <b>SECTION</b>               | <b>Fitness-to-Practise - Eligibility, Referral, Process, Including</b> |                 |                |
| <b>SUBJECT</b>               |  |                 |                |
| <b>Approved by the Board</b> | <b>Effective<br/>02/06/2025</b>  | <b>Reviewed</b> | <b>Revised</b> |

## **POLICY STATEMENT**

1. The Regulator’s Fitness-to-Practise Process shall be:
  - a non-disciplinary and remedial process designed to support registrants who are experiencing an “incapacity;”
  - used to support registrants to return to practice once they are able to provide safe and competent care to clients.
2. Registrants must recognize that:
  - the majority of registrants involved in the Fitness-to-Practise Process will stop practising for a period of time while they focus on obtaining treatment before returning to work; and
  - in particular cases, it may be possible for a registrant to remain in practice while participating in the Fitness-to-Practise Process; however, these cases are the exception, rather than the norm.

### **Eligibility for and Referral to the Fitness-to-Practise Process**

3. The Registrar shall determine if a registrant is eligible for the Fitness-to-Practise Process by assessing on a case-by-case basis.
4. To determine whether a registrant is eligible for the Fitness-to-Practise Process, the Registrar may request the registrant to undergo a capacity examination by a qualified person and authorize the report from the examination to be given to the Registrar.
5. To be eligible for the Fitness-to-Practise Process, the following criteria must be met:
  - the Registrar determines the registrant is eligible based on evidence of possible incapacity;
  - the registrant agrees to participating in the Fitness-to-Practise Process;
  - one or more of the following factors are met;
    - 5..1. a complaint concerns the registrant’s incapacity;

- 5..2. the information disclosed in a regulatory process raises concerns respecting the registrant's incapacity;
  - 5..3. a person raises questions respecting the possible incapacity of the registrant to the Regulator in the absence of a complaint; or
  - 5..4. the registrant self-reports incapacity to the Regulator.
- there is reasonable evidence suggesting incapacity, including but not limited to one or more of the following;
    - 5..1. a documented history of behaviour or performance concerns related to incapacity;
    - 5..2. medical or psychological evidence indicating an impairment that affects the registrant's ability to practise safely; or
    - 5..3. a pattern of incidents (e.g. errors, complaints, or workplace concerns) that raise reasonable concerns about capacity;
  - the matter does not meet the criteria to be excluded from the fitness-to-practise process. The exclusion criteria include, but are not limited to;
    - 5..1. there is insufficient evidence to suggest incapacity;
    - 5..2. the concerns are primarily related to conduct, ethics, or competency rather than incapacity; or
    - 5..3. the registrant does not agree to the referral;
  - all eligibility decisions must be clearly documented by the Registrar, including the rationale for referral or non-referral.

### **Referral of Fitness-to-Practise Matters occurring outside of Nova Scotia**

- 6. Where a registrant engages in practice outside of Nova Scotia, and is subject to a licensing sanction or has outstanding complaints or allegations of incapacity from outside Nova Scotia, the Registrar may refer the registrant to the Fitness-to-Practice Committee provided the Registrant:
  - meets the eligibility requirements of this policy; and

- agrees to the Fitness-to-Practise Process.

### **Fitness-to-Practise Process**

7. If the Registrar determines that a registrant is eligible for the Fitness-to-Practise Process, the registrant shall either:
  - cease practising to pursue remediation of the incapacity under such terms and conditions as agreed with the Registrar; or
  - continue in or resume practice under such terms and conditions as agreed with the Registrar.
8. An agreement made pursuant to clause 7.1 or 7.2 may be in the form of an Undertaking to Address Incapacity.
9. If the registrant continues in or resumes practice pursuant to clause 7.2, the agreement reached between the Registrar and the registrant must be approved by the Fitness-to-Practise Committee.
10. Where a matter referred to the Fitness-to-Practise Process concerns a registrant who was previously part of a Fitness-to-Practise Process, the Registrar and the Fitness-to-Practise Committee must be provided with all information in the possession of the Regulator related to the previous matter.
11. Where a registrant is seeking to return to practice, the Registrar and the registrant may reach an agreement regarding the terms, conditions, and restrictions that will apply to the registrant's licence if the registrant is approved to return to practice by the Fitness-to-Practise Committee. This agreement may be in the form of a Remedial Agreement.
12. Nothing within this policy precludes a registrant, the Registrar and a Fitness-to-Practise Committee from working together to develop an agreement under clause 7.2 of this policy.

### **Meetings with the Fitness to Practise Committee**

13. The Registrar may request a meeting with the Fitness-to-Practise Committee at any time during the Fitness-to-Practise Process with respect to a registrant's progress in the process or to request the registrant's removal from the process.
14. A registrant may request a meeting with the Fitness-to-Practise Committee when the registrant:
  - has ceased practising in accordance with clause 7.1 and is seeking to return to practice; or

- has agreed to terms and conditions for practice in accordance with Article 7.2 and seeks to remove or vary any of the terms and conditions.
15. Upon receiving a request to meet, the Fitness-to-Practise Committee shall convene a meeting with the registrant. The Registrar may participate in a meeting between the Fitness-to-Practise Committee and the registrant.
16. At a Fitness-to-Practise Committee meeting, the registrant and the Registrar may introduce evidence and make submissions in a form determined by the Committee before the meeting.
17. After hearing from the registrant and the Registrar, the Fitness-to-Practise Committee may:
- approve the registrant's return to practice, subject to such terms and conditions as the Fitness-to-Practise Committee deems appropriate and with which the registrant agrees;
  - vary the terms and conditions under which the registrant is practising if the registrant agrees to such variation; or
  - deny the return to practice or variation request and refer the registrant back to the Registrar.
18. The Fitness-to-Practise Committee may appoint an investigator to investigate possible non-compliance with a Remedial Agreement.
19. Fitness-to-Practise meetings are closed to the public.

### **Costs/Expenses**

20. The Registrar may award costs against a registrant to recover expenses incurred for a capacity assessment.
21. The Fitness-to-Practise Committee may require a registrant to pay for expenses, under the terms the Committee determines, related to the Fitness-to-Practise Process involving the remediation of the incapacity or in order for a registrant to continue in or resume practice.

### **DOCUMENT HISTORY (Date of Reviews and Revisions, etc):**

N/A

|                              |   |                 |                |
|------------------------------|---|-----------------|----------------|
| <b>SECTION</b>               | <b>Fitness-to-Practise Process: Breach and Removal Management</b> |                 |                |
| <b>SUBJECT</b>               |   |                 |                |
| <b>Approved by the Board</b> | <b>Effective<br/>02/06/2025</b>                                   | <b>Reviewed</b> | <b>Revised</b> |

## **POLICY STATEMENT**

1. This policy applies to any registrant who has entered the Fitness-to-Practise Process with the Regulator.

### **Breach During the Fitness-to-Practise Process**

2. The Fitness-to-Practise Committee may convene a meeting to review a registrant who may have breached a remedial agreement (including a registrant who experiences a relapse) during their return to practice to determine whether continued participation in the Fitness-to-Practise Process remains appropriate and consistent with the Objects of the Regulator.
3. A breach does not automatically result in removal from the Fitness-to-Practise Process. The Fitness-to-Practise Committee shall consider a number of factors, including but not limited to:
  - 3.1. the nature and severity of the breach;
  - 3.2. whether the breach presents an immediate risk to the public or to the registrant's ability to practise safely;
  - 3.3. whether the registrant voluntarily disclosed the breach and demonstrated insight and accountability;
  - 3.4. the registrant's engagement with treatment and/or monitoring programs; and
  - 3.5. any expert medical or psychological opinions regarding the registrant's fitness to practise.
4. If the Fitness-to-Practise Committee determines that continued participation in the process is not in the public interest due to the breach, the registrant shall be removed from the Fitness-to-Practise Process in accordance with this policy and referred back to the Registrar or the appropriate committee.
5. If the Fitness-to-Practise Committee determines that the registrant's breach can be addressed within the current process and that the registrant does not pose an immediate risk, the Committee may revise or impose additional terms, conditions, or monitoring requirements to support continued safe practice.

6. The Fitness-to-Practise Committee shall document all considerations and decisions related to a breach and shall communicate its decision, along with reasons, to the registrant in writing.

### **Removal From the Fitness-to-Practise Process**

7. A registrant may be removed from the Fitness-to-Practise Process and referred back to the Registrar if:
  - 7.1. the registrant withdraws consent to participate in the Fitness-to-Practise Process;
  - 7.2. the registrant fails to submit to a capacity examination as directed by the Registrar;
  - 7.3. the registrant does not agree with the terms or conditions for practice or for a return to practice sought by the Fitness-to-Practise Committee;
  - 7.4. the Fitness-to-Practise Committee determines that a registrant:
    - 7.4.1. fails to meet the agreed terms and conditions of practice, or
    - 7.4.2. poses an immediate threat to the health or safety of others;
  - 7.5. the Fitness-to-Practise Committee is not satisfied that the registrant is incapacitated; or
  - 7.6. at any time the Fitness-to-Practise Committee considers that it is no longer consistent with the Objects of the Regulator for the registrant to participate in the Fitness-to-Practise Process.
8. Where the registrant is removed from the Fitness-to-Practise Process and was involved in regulatory process at the time of referral to the Fitness-to-Practise Process, the registrant must be referred back to the committee of the Regulator conducting the regulatory process.
9. Where the registrant is removed from the Fitness-to-Practise Process and the matter was referred by the Registrar outside of a regulatory process, the Registrar shall determine whether a regulatory process should be initiated or whether the matter requires further action under the Act.
10. Where a registrant is removed from the Fitness-to-Practise Process, the registrant's file, including reports, assessments and evaluations in the possession of or obtained by the Fitness-to-Practise Committee, must accompany the referral and may be provided by the Registrar to any person or statutory committee addressing the matter.

### **Costs**

11. The Fitness-to-Practise Committee may award costs against a registrant to recover expenses incurred in the Fitness-to-Practise Process, including the costs of a fitness-to-practise assessment, if the registrant is referred back to the Registrar.

**DOCUMENT HISTORY (Date of Reviews and Revisions, etc):**

N/A



|                              |  |                 |                |
|------------------------------|--|-----------------|----------------|
| <b>SECTION</b>               | <b>Jurisdiction of the Fitness-to-Practise Committee</b> |                 |                |
| <b>SUBJECT</b>               |  |                 |                |
| <b>Approved by the Board</b> | <b>Effective<br/>02/06/2025</b>                          | <b>Reviewed</b> | <b>Revised</b> |

## **POLICY STATEMENT**

1. A Fitness-to-Practise Committee retains jurisdiction over a registrant who is subject to ongoing terms and conditions of practice agreed upon with the Committee until such terms and conditions have been met or the matter has been referred back to the Registrar.
2. Where a registrant has been referred back to a statutory committee of the Regulator, the statutory committee regains jurisdiction over the matter involving the registrant.

## **DOCUMENT HISTORY (Date of Reviews and Revisions, etc):**

N/A

|                              |   |                 |                |
|------------------------------|---|-----------------|----------------|
| <b>SECTION</b>               | <b>Registrant's Rights before Fitness-to-Practise Committee</b> |                 |                |
| <b>SUBJECT</b>               |   |                 |                |
| <b>Approved by the Board</b> | <b>Effective<br/>02/06/2025</b>                                 | <b>Reviewed</b> | <b>Revised</b> |

## **POLICY STATEMENT**

1. A registrant appearing before the Fitness-to-Practise Committee has the right to:
  - 1.1. be represented by legal counsel, a union representative or another representative at the registrant's own expense;
  - 1.2. notice of any matters under investigation;
  - 1.3. a reasonable opportunity to present a response and make submissions in such form as determined by the Committee;
  - 1.4. such other information as natural justice requires; and
  - 1.5. such other information as determined by the Registrar.

## **DOCUMENT HISTORY (Date of Reviews and Revisions, etc):**

N/A