

Counselling & Investigation Committee

Terms of Reference

1. Purpose

The purpose of this Terms of Reference is to:

- Articulate the role & responsibilities of the Counselling & Investigation Committee
- Outline the general expectations of Counselling & Investigation Committee members
- Provide a record of the administrative structure of the Counselling & Investigation Committee.

2. Mandate of the Counselling & Investigation Committee

The Counselling & Investigation (C&I) Committee is responsible for investigating complaints. It reports to the Discipline Committee if the complaint has been resolved by consent, is dismissed, or if it recommends the Discipline Committee hold a formal hearing.

3. Membership Structure

The Licensed Practical Nurses Act, 2000 (the "LPN Act") provides:

- 25(1) The Counselling & Investigation Committee is established consisting of at least three (3) persons appointed by the Council, the majority of whom are to be practising members.
- (2) No member of the Council or member of the Discipline Committee is eligible to be a member of the Counselling & Investigation Committee.

Committee Members

The Counselling & Investigation Committee should comprise:

- Four (4) Practising LPNs, in good standing with the SALPN. One (1) Practising LPN may serve as an alternate to be available to act in cases of conflict of interest
- A minimum of one (1) member of the public, appointed by the Council

At least one half of the fixed members of the committee constitutes a quorum

The SALPN Council appoints:

- all members of the Committee based on interest, ability, and availability.
- a Chairperson from among the Committee membership.

The Counselling & Investigation Committee is provided with administrative support by the SALPN Complaints Investigation Discipline Manager.

Duration of Terms and Eligibility for Reappointment

- Three (3) year terms
- Committee members may be reappointed, extended, or discontinued at the conclusion of each term.
- The maximum term length on any one statutory committee or a combination of both the Counselling & Investigation Committee and Discipline Committee is nine (9) years.

4. Roles & Responsibilities

Committee Chair

- Oversee the Counselling & Investigations Committee's discharge of duties as provided by the LPN Act and the SALPN Regulatory Bylaws.
- Ensure a sufficient number of meetings are scheduled based on caseload.
- Set agendas for committee meetings.
- Oversee the distribution of information to the committee in a secure and manageable form, sufficiently in advance of the meeting.
- Preside over and conduct committee meetings in an efficient, effective, and ethical manner.
- Communicate committee concerns to the SALPN Council or appropriate SALPN staff.
- Provide feedback on Committee Member performance to inform the reappointment process.

All Committee Members (including Chair)

- Complete the Statutory Committee Member Development Program (SCMDP).
- Review and investigate allegations, taking any steps the committee considers necessary and appropriate.
- Review the evidence and determine the facts of the investigation.
- Provide direction, instruction, or assistance to the committee's legal counsel.
- Seek advice from the committee's legal counsel.
- Provide a Report to the Discipline Committee with recommendations to:
 - hear the complaint in a formal hearing and determine the outcome;
 - take no further action due to a resolution achieved by a mutual agreement with the complainant and the LPN subject to a complaint; or
 - recommend no further action.
- Provide a report to the SALPN Council, the complainant, and the LPN subject to complaint when no further action is recommended, or the complaint is resolved by mutual agreement.
- Prosecute or direct the prosecution of the formal complaint.
- Attend discipline hearings if possible.
- Participate as witnesses in formal hearings, as required.
- Develop knowledge and understanding of the SALPN's legislative documents.

- Attend/complete education as prescribed by the Council.
- Adequately prepare for meetings.
- Comply with the LPN Act and the procedure manual of the Committee.
- Develop an understanding of, and comply with, the applicable legislation and the Counselling & Investigation Committee procedure manual.

5. Authority

The Counselling & Investigation Committee's authority to investigate complaints is set out in the following provisions of the LPN Act:

Counselling & Investigation Committee

- 25(1) The Counselling & Investigation Committee is established consisting of at least three (3) persons appointed by the Council, the majority of whom are to be practising members.
- (2) No member of Council or member of the Discipline Committee is eligible to be a member of the Counselling & Investigation Committee.

Investigation

- 26(1) Where the Counselling & Investigation Committee is requested by the Council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:
- (a) review the complaint; and
 - (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint or assessing the member's competence.
- (2) On completion of its investigation, the Counselling & Investigation Committee shall make a written report to the Discipline Committee recommending that:
- (a) the Discipline Committee hear and determine the formal complaint set out in the written report; or
 - (b) no further action be taken with respect to the matter under investigation because:
 - (i) the matter has been resolved with the consent of the complainant and the member who is the subject of the investigation; or
 - (ii) in the opinion of the Counselling & Investigation Committee, no further action is warranted on the facts of the case.
- (3) The formal complaint set out in a written report made pursuant to subsection (2) (a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).
- (4) A report signed by a majority of the Counselling & Investigation Committee is the decision of that committee.

- (5) The Counselling & Investigation Committee shall provide, or cause the Executive Director to provide, a copy of a written report made pursuant to subsection (2)(b) to:
- (a) the Council;
 - (b) the person, if any, who made the complaint mentioned in subsection (1); and
 - (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

Temporary suspension

27(1) Where the Counselling & Investigation Committee is of the opinion that, on the basis of the allegations or the nature of the case, the member's licence should be suspended or the member should be prohibited from performing any practice or procedure pending the outcome of the investigation or hearing, it may, with the prior approval of the Council, apply to a judge of the court for an order:

- (a) suspending the licence of a member whose conduct is the subject of an investigation pursuant to clause 26(1) or against whom a formal complaint has been made pursuant to clause 26(2)(a); or
- (b) temporarily prohibiting a member described in clause (a) from performing any specified practice or procedure.

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

- (a) 90 days from the date of the order;
- (b) the date of a report of the Counselling & Investigation Committee made pursuant to clause 26(2)(b);
- (c) where the Discipline Committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;
- (d) where the Discipline Committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 30.

(3) The Counselling & Investigation Committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

Discipline hearing

29(2) The Counselling & Investigation Committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint, except as witnesses when required.

Continuity of committee

31 Where an investigation is commenced by the Counselling & Investigation Committee or a hearing is commenced by the Discipline Committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the Counselling & Investigation Committee or Discipline

Committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

Duty to report

33 Where the Counselling & Investigation Committee in its investigation pursuant to section 26 or the Discipline Committee at the conclusion of its hearing pursuant to section 29 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the association; and
- (b) the Deputy Minister of Justice.

SALPN Regulatory Bylaws

Counselling & Investigation Committee

22(1) The Counselling & Investigation Committee shall:

- (a) advise the member that the complaint has been received and the nature of the complaint and invite comments from the member in reply;
- (b) provide the member with a copy of the committee's investigation procedures;
- (c) notify the complainant that the complaints or allegations will be reviewed;
- (d) attempt to resolve the matter to the satisfaction of the complainant and the member;
- (e) engage in any counselling of the member that the committee considers necessary or appropriate; and
- (f) review and investigate the complaint in accordance with the Act.

(2) Where a member of the committee declares a conflict of interest, he or she shall not thereafter participate in any further consideration of the complaint, and any such withdrawal from the committee does not impair the power of the remaining members of the committee to act.

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