



COUNSELLING & INVESTIGATION AND DISCIPLINE COMMITTEE PROCEDURES

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1. THE LEGISLATED AUTHORITY OF THE SALPN & STATUTORY COMMITTEES

The Government of Saskatchewan has granted the Saskatchewan Association of Licensed Practical Nurses (SALPN) the authority and responsibility to regulate Licensed Practical Nurses (LPNs) in Saskatchewan.

The purpose of professional regulation is to protect the public from risk and reduce harm to those a profession serves. LPNs are regulated because the service LPNs provide can pose a risk to the public if performed incompetently, unethically, or by unqualified individuals.

The Licensed Practical Nurses Act, 2000 (LPN ACT) establishes two statutory committees: The Counselling & Investigation Committee and the Discipline Committee. They manage investigation and discipline proceedings involving LPNs. The LPN Act prescribes the composition and the authority of the committees. The decision-making functions of the committees are independent of the SALPN and are supported administratively by SALPN staff.

The processes and decision-making of the committees are guided by the below principles of natural justice and procedural fairness:

- The right to be informed
- The right to respond to the allegations
- The right to be represented
- The right to a fair and impartial decision-making process
- The right to have the case decided by those that have heard the case
- The right to timely proceedings
- The right to be provided reasons for decision-making.

2. DEFINITIONS

Affidavit Evidence: An affidavit is written evidence used to state facts, not to provide argument or conclusions. It is sworn or affirmed to be true before a Commissioner for Oaths or Notary Public.

Agreed Statement of Facts: A written list of the facts and documents that are agreed by the Counselling & Investigation Committee and the member and which therefore do not have to be proven through oral testimony of witnesses.

Alternate Dispute Resolution (ADR): A consensual agreement between the Counselling & Investigation Committee and the member to address and resolve complaint allegations.

Code of Ethics: A Code of Ethics is a document that articulates the ethical values and responsibilities that LPNs uphold and promote and to which they are accountable. SALPN has adopted the *Code of Ethics for Licensed Practical Nurses in Canada*, approved and adopted by the Canadian Council of Practical Nurse Regulators. Compliance with the Code is required by SALPN's regulatory bylaws.

SALPN Council: The governing body authorized in the LPN Act to regulate the LPN profession in Saskatchewan and oversee the management and affairs of the organization.

Complaints, Investigation and Discipline Manager: The SALPN employee responsible for receiving, managing and directing the flow of complaints and Committee(s) decisions as part of the Complaints, Investigation and Discipline process.

Conflict of Interest: A conflict of interest occurs when a party has competing interests or loyalties because of their duties to more than one person or organization.

Counselling & Investigation Committee (C&I): The Committee authorized in the LPN Act to investigate complaints alleging professional misconduct or professional incompetence. The Counselling and Investigation Committee is established consisting of at least three persons appointed by the Council, the majority of whom are to be practising members. Upon completion of investigation, the committee is required to make a written report to the Discipline Committee informing the committee of their recommendation.

Discipline Committee: The Committee authorized in the LPN Act to hear the formal complaint and determine whether or not the member is guilty of professional misconduct or professional incompetence. The Discipline Committee is established consisting of at least three persons appointed by the Council, the majority of whom are to be practising members, with one public appointee. Where the Committee finds a member guilty of a discipline offence it can impose orders, issue fines, and order the payment of costs.

Evidence: Statements, information or objects that are used to prove or disprove an alleged fact.

Former Member: An individual who has not held SALPN membership within the last two years.

Discipline Hearing: A formal prosecutorial hearing in which the Discipline Committee hears the evidence presented by the C&I Committee and the member who is the subject of a complaint.

Investigator: Individual responsible for the investigation of a complaint. The investigator presents the information gathered during the investigation to the Counselling & Investigation Committee.

LPN: Licensed Practical Nurse.

Licensed Practical Nurses Act, 2000 (LPN Act): The statute delegating the authority to regulate the LPN profession in Saskatchewan.

Member: A person who is registered with the SALPN, and in the context of the complaints and discipline process includes former members.

Prosecutor: The Counselling & Investigation Committee acts as the prosecutor when a member's case is heard before the Discipline Committee.

Professional Practice Standards and Ethics Consultant: The SALPN employee responsible for developing and providing guidance to members about the profession's professional practice standards and ethics.

Professional Incompetence: Defined in Section 23 of the LPN Act as "a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as a part of the practice of the profession".

Professional Misconduct: Defined in Section 24 of the LPN Act as "a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonorable, is professional misconduct within the meaning of the Act if it:

- (a) is harmful to the best interests of the public or the members.
- (b) tends to harm the standing of the profession.
- (c) is a breach of the Act or the bylaws; or
- (d) is a failure to comply with an order of the Counselling & Investigation Committee, the Discipline Committee or the Council."

Registrar: The SALPN Employee responsible for SALPN's registration and licensure functions, as prescribed in the LPN Act and bylaws.

SALPN: Saskatchewan Association of Licensed Practical Nurses.

Standards of Practice: The minimum expected levels of practitioner performance or behaviour, against which actual practitioner performance or behaviour is measured. SALPN has adopted the *Standards of Practice for Licensed Practical Nurses in Canada*, approved and adopted by the Canadian Council of Practical Nurse Regulators. Compliance with the standards is required by SALPN's regulatory bylaws.

Subpoena: An order to compel someone to participate in a hearing.

Testimony: Statements made by witnesses who have taken an oath or affirmed that they will tell the truth.

3. COMPLAINT INFORMATION & SUBMISSION PROCESS

3.1 WHAT IS A COMPLAINT?

- A report of alleged incompetence or misconduct of a member of the SALPN.
- A complaint should include detailed description(s) of the allegation(s).
- A complaint may include photos/video/and other supporting documentation.

3.2 WHO CAN SUBMIT A COMPLAINT?

- Any person may submit a complaint, including SALPN staff.
- The SALPN will take reasonable steps to support the complaint submission process including, but not limited to, interpreters, dictation and other support services.
- Anonymous complaints may be accepted in some circumstances.

3.3 HOW DO YOU SUBMIT A COMPLAINT?

- A report may be submitted in the following formats:
 - Electronic
 - Written
 - Verbal

3.4 THE COMPLAINT PROCESS

- The member is provided with a copy of the complaint.
- The member is allowed 30 days to respond to the complaint, in writing, with their account of event(s).
- At various stages, some, or all, details of the complaint may be shared with the following as necessary:
 - Member.
 - Investigator.
 - SALPN staff (as appropriate).
 - Counselling & Investigation Committee.
 - Discipline Committee.
 - SALPN Council.

3.5 TERMINATION OF EMPLOYMENT

- If a member's employment is terminated for reasons of professional incompetence or professional misconduct, the employer is required to report the termination to the SALPN. Reports of termination are not complaints as described in the Act but may be investigated in the same manner.

4. RECEIPT & NOTIFICATION OF COMPLAINTS

All complaints submitted to the SALPN are reviewed by the Counselling & Investigation Committee. Section 26 of the LPN Act outlines that upon receipt of allegations of professional incompetence or professional misconduct, the Committee shall:

- 26 (1) (a) review the complaint; and
- 26 (1) (b) investigate the complaint by taking any steps it considers necessary.

As a member of SALPN, it is the member's professional responsibility and obligation to participate in and cooperate with the Complaints, Investigation and Discipline process.

4.1 CREATING THE COMPLAINT RECORD

When the SALPN receives a complaint against a member, the complaint is recorded in the member database and assigned a case file number.

When creating the complaint record, the SALPN records the following information:

- Date the SALPN received the complaint.
- Member's name and identification number.
- Complainant name(s).
- Allegation details.
- Committee investigation documentation.
- Committee reports.

4.2 CONFLICT OF INTEREST REPORT

When the SALPN receives a complaint, it is assessed by the Investigator for any conflict of interest. Any identified risk is reported to the Executive Director and the case file is assigned to a different investigator.

4.3 MEMBER NOTIFICATION & MEMBER RESPONSE

4.3.1 When a complaint has been received by the SALPN, the Complaints & Compliance Manager makes telephone contact, where possible, with the member named in the complaint and provides them with notification.

4.3.2 Following notification, the SALPN provides a copy of the complaint by email.

4.3.3 The notification includes:

- The complaint, as it was received, identifying the complainant, witnesses, and supporting documentation.
- A deadline of 30 days in which the member is to submit a written response to the SALPN.

MEMBER NOTIFICATION & MEMBER RESPONSE (Continued)

- Notification that the complaint and investigation are kept confidential to the Counselling & Investigation Committee, the Complaint Investigator, and the following SALPN staff:
 - The SALPN Registrar
 - Complaints, Investigation and Discipline Manager
- Notification of the right to access legal representation, at their own expense.
- An explanation of the member's current licensure status and eligibility.
- Information about the SALPN Complaints, Investigation and Discipline process.

4.3.4 Upon receipt of the member's written response:

- SALPN provides email confirmation to the member that their written response has been received.
- The member is informed that the Complaints Investigator will initiate contact to arrange the investigation.
- The member is assigned the Complaints, Investigation, and Discipline Manager as a point of contact during the process.

4.4 RISK ASSESSMENT

Upon receipt of a complaint, an assessment for risk is conducted at three intervals during the Counselling & Investigation Process:

- The initial risk assessments are completed by the Complaints, Investigation and Discipline Manager upon receipt and once the complaint and member's written response is received. The risk assessment measures potential risk to public safety according to a scale of identifiers. The scale assigns a risk score from low to serious and alerts the investigator of case priority information.
- The second risk assessment is performed by the Investigator upon review of the complaint, member responses. The complaint is reassessed and scaled for potential risk to public safety and prioritized accordingly for further investigation should the Counselling & Investigation Committee determine it is warranted.
- Upon completion of the investigation, the Investigator prepares a final risk assessment, reporting governability, pattern of conduct and effects on public interest.

5. COUNSELLING & INVESTIGATION COMMITTEE OBLIGATIONS

5.1 CONFLICT OF INTEREST REPORT

- Members of the Counselling & Investigation Committee, upon receipt of a complaint will conduct a conflict-of-interest check and inform the committee chair of the outcome. A committee member who declares a conflict of interest is excluded from all matters pertaining to the complaint file.
- The Committee Chair will then assign an alternate member to the committee for the duration of the process. If the Committee Chair declares a conflict of Interest, an alternate chair is appointed by Council.

5.2 DUTY TO REPORT CRIMINAL CONDUCT

Both the Counselling & Investigation and Discipline Committees have a duty to report criminal conduct. If it is believed that the member subject to investigation may be guilty of a criminal offence, the committee may immediately discontinue its investigation and report its findings to the Council Chair and the Deputy Minister of Justice.

6. SCOPE OF INVESTIGATION

According to Section 26 1(a)(b) of the LPN Act, when the Counselling & Investigation Committee receives a complaint alleging that a member is guilty of professional misconduct or professional incompetence, the Committee will review the complaint and investigate by taking any steps it considers necessary.

The Committee, based on the information gathered during the investigation of the complaint determines if the member's practice or conduct occurred in breach of the Standards of Practice or the Code of Ethics, which are breaches of the regulatory bylaws and therefore defined by the LPN Act as professional misconduct. Other conduct that is not in breach of a specific provision of the standards or the code may also constitute professional incompetence or professional misconduct as those terms are defined in the LPN Act.

Upon their initial review and investigation, the Counselling & Investigation Committee may determine to proceed in several different ways:

6.1 NO FURTHER ACTION IS WARRANTED

No further action is required where:

- The Committee determines the evidence did not fall within the definition of professional misconduct and/or professional incompetence and hold the opinion that the member would likely not be found guilty if reviewed by the Discipline Committee.

6.2 RESOLUTION USING AN OFFENCE TICKET

A resolution may be offered using an offence ticket where the member has provided their admission of their failure to comply with the Registrar's Annual Audit for CEP, Verification of Hours Worked, Criminal Record Check or instances where the member has admitted Working Without Valid Licensure. Resolution by way of offence ticket requires the member to plead guilty by signing a declaration to that effect.

[Policy 2.1.03, 2.13.02](#)

6.3 DIRECT FURTHER INVESTIGATION

Where the Counselling & Investigation Committee determines, upon initial review and investigation, that it does not have adequate information to make a decision, the Committee may direct that further investigation occur. The Committee may also direct further investigation if the member does not admit their failure for compliance with the annual audit or in working without valid licensure.

6.4 TEMPORARY SUSPENSION OF LICENSURE

Court Application. The Counselling & Investigation Committee, upon application to the SALPN Council, may request the SALPN Council proceed with application to the Court for an order of suspension of the member's practising license for a period of up to 90 days when it is believed there is a high risk to the public.

6.5 VOLUNTARY SURRENDER OF LICENSURE

Voluntary Surrender of Licensure. The Counselling & Investigation Committee may request the Voluntary Surrender of Licensure where it determines that there is an immediate risk to the safety of the public or the LPN.

6.6 COMMITTEE DIRECTED INVESTIGATION PROCEEDINGS

Where the Counselling & Investigation Committee directs further investigation, the Investigator is provided with the complaint, the member responses and any case file documentation received by the SALPN. The directed investigation will be conducted to gather evidence related to the complaint. This process may include:

6.6.1 METHODS OF EVIDENCE COLLECTION

- a. Interviews with the following may be conducted in-person or by a virtual platform:
 - The member
 - The complainant
 - Anynamed or subsequently identified witnesses.
- b. Collection of documents and other objects or materials
- c. Sitevisits

6.6.2 AUDIO RECORDED INTERVIEWS

To ensure the integrity of the interview process, the Investigator will audio record all interviews. The recordings are part of the investigative record and are not disclosed to anyone outside of the Counselling & Investigation Committee, including the member, complainant or any other parties subject to the recorded process.

To ensure an accurate representation of information is collected during the investigation, the Investigator will issue the member and complainant a summary of the recorded information for their signed declaration or amendment.

6.6.3 INTERVIEW ARRANGEMENTS

Any interviews conducted at the direction of the Counselling & Investigation Committee shall occur in a confidential setting within a public facility or institution. For the safety of all participants, the Investigator is not permitted to conduct interviews within a private home setting.

6.6.4 INVESTIGATOR'S REPORT

- Upon completion of the directed investigation, the Investigator shall prepare a report for review by the Counselling & Investigation Committee.

The Investigative Report shall include the following:

- Conflict of interest declaration, if applicable.
- Identity of individuals and date of interviews.
- Copy of the initial complaint.
- Copy of the written responses.
- Any supporting documentation collected during the investigation.
- Summary of facts and evidence.
- Written and signed statements.

7. COMMITTEE REVIEW OF DIRECTED INVESTIGATION

The Investigator shall provide the report to the Counselling & Investigation Committee for their review. Upon examination of the collected evidence, the Counselling & Investigation Committee may determine that it is necessary to:

- Hear parts of or the full audio-recorded interviews.
- Request further information or case documentation prior to rendering their decision.

7.1 THE COUNSELLING & INVESTIGATION COMMITTEE'S DECISION

When the Counselling & Investigation Committee is satisfied, it is able to make a decision as set out in subsection 26(2) of the LPN Act, the Committee will proceed by informing the Discipline Committee in a report that:

7.1.1 NO FURTHER ACTION IS WARRANTED

The Counselling & Investigation Committee is of the opinion that the member's actions did not meet the definition of either professional misconduct and/or professional incompetence and therefore no further action is warranted.

7.1.2 COMPLAINT RESOLVED BY CONSENT

The Counselling & Investigation Committee is of the opinion that the member would likely be found guilty of professional misconduct and/or professional incompetence, however the complaint was resolved with the mutual consent of the complainant and the member by way of an Alternative Dispute Resolution (ADR) Agreement.

7.1.3 REFERRAL TO THE DISCIPLINE COMMITTEE

If the Counselling & Investigation Committee is of the opinion that the member would likely be found guilty of professional misconduct and/or professional incompetence and the complaint cannot be resolved through an ADR Agreement, the Counselling & Investigation Committee may recommend that the Discipline Committee hear and determine the formal complaint or charge set out in the report.

The report must be signed by the majority of the Committee. The report is then distributed to the:

- Member,
- Complainant,
- Discipline Committee,
- SALPN Council.

8. DISCIPLINE COMMITTEE OBLIGATIONS

Where the Discipline Committee has been recommended to hear and determine a formal complaint by the Counselling & Investigation Committee, the members of the Committee will conduct a conflict-of-interest check and inform the Committee Chair of the outcome, prior to the hearing. If a Committee member declares a conflict of interest, they are excluded from the hearing. The Committee Chair will then assign an alternate member to the Committee for the duration of the hearing process.

9. DISCIPLINE HEARING

9.1 MEMBER NOTIFICATION

When a formal complaint is referred for hearing to the Discipline Committee, the Executive Director shall, at least 14 days before the date of the hearing:

- send a copy of the formal complaint to the LPN
- serve notice to the LPN of the hearing date, time, and place.

The formal complaint is prepared by the Counselling & Investigation Committee and its legal counsel.

9.2 MEMBER'S RIGHT TO LEGAL REPRESENTATION

The member may wish to be represented at a discipline hearing by legal counsel. Any associated costs are the responsibility of the member.

9.3 THE DISCIPLINE HEARING PROCESS

- Any member of the public may attend discipline hearings.
- During the hearing, the Counselling & Investigation Committee will act as prosecutor and present evidence to the Discipline Committee.
- The Counselling & Investigation Committee will disclose all documentation, in its possession, and a listing of witnesses to the member or the member's legal counsel.
- The member or the member's legal counsel is responsible for obtaining a subpoena to compel the attendance of any witnesses they wish to testify during the hearing.
- Witness testimony occurs under oath or affirmation and both the member and the Counselling & Investigation Committee have full right of examination, cross examination, and re-examination of all witnesses.
- the member has the right to present evidence in defense and reply.

9.4 HEARING EVIDENCE

Evidence heard by the Discipline Committee may be received in the form of:

- Witness Testimony
- Affidavit Evidence
- Agreed Statement of Facts

9.5 VIOLATION OF PRIVACY

The Discipline Committee has the discretion to exclude the public and the complainant from any part/parts of the hearing to protect the privacy of a person other than the member whose conduct is the subject of the hearing.

9.6 FAILURE TO APPEAR BEFORE THE DISCIPLINE COMMITTEE

Should the member fail to appear before the Discipline Committee for the hearing, the process will proceed in their absence.

9.7 THE DISCIPLINE COMMITTEE ORDER

After hearing the formal complaint, the Discipline Committee will deliberate in-camera and come to its decision. Its written decision and any order are provided to the Executive Director for distribution and publication as follows:

- The Executive Director will send a copy of the order to the member who is the subject of the complaint and to the complainant.
- The Discipline Committee order is posted on the SALPN website.
- The order may also be provided to other relevant individuals as determined by the Discipline Committee.

9.8 DISCLOSURE OF IDENTITY

The member's name will be disclosed in the order unless the Discipline Committee has directed that the member's name be redacted to protect the health or security of the member or some other person.

9.9 DISCIPLINARY POWERS

Where the Discipline Committee has found a member guilty of professional misconduct and/or professional incompetence as defined in the LPN Act, the Committee has the power to:

- Expel the member from the SALPN and have their name "struck from the register".
- Suspend a license for a specific period.
- Suspend a license until specific requirements have been met by the member.
- Allow the member to practice with certain conditions specified in the order.
- Assign a specified monetary fine, not to exceed \$5000, with a fixed deadline for payment.
- Order the repayment of all or some of the costs of the investigation and hearing.
- Other orders that the Discipline Committee determines are just.

10. APPEAL PROCESS

10.1 APPEAL TO THE SALPN COUNCIL

A member may appeal the decision or any order of the Discipline Committee to the Council by serving the Executive Director with a notice of appeal within 30 days after the decision.

The Executive Director shall present the Council with the following:

- The formal complaint that was submitted to the Discipline Committee.
- The Report to Discipline that was submitted by the Counselling & Investigation Committee (in cases of criminal conviction only)
- A transcript of the discipline hearing
- The decision and order made by the Discipline Committee.

10.2 THE SALPN COUNCIL'S APPEAL DECISION

Upon hearing the appeal, the Council may:

- Dismiss the appeal.
- Quash the finding of guilt.
- Direct a new hearing or further inquiries by the Discipline Committee.
- Vary the order of the Discipline Committee.
- Substitute its own decision for the decision appealed.

10.3 APPEAL TO THE COURT

A member may appeal to the Court of Queen's Bench instead of appealing to the SALPN Council, or may appeal the Council's decision to that Court, by filing a notice of appeal with the Court within 30 days of the date of the decision. A decision of the Court of Queen's Bench can be appealed to the Court of Appeal only on a question of law.

10.4 COST FOR LEGAL REPRESENTATION

The member may wish to be represented by legal counsel during the appeal process. Any associated costs would be the responsibility of the member.

11. COMPLAINTS, INVESTIGATION & DISCIPLINE (CID) PROCESS

