

EVALUATION OF CAPACITY, COMPETENCE AND CHARACTER

PREAMBLE

As stated in the Psychologists Act:

- 3A (1) The objects of the Board are to
- (a) serve and protect the public interest in the practice of psychology;
 - (b) preserve the integrity of the profession of psychology; and
 - (c) maintain public confidence in the ability of the Board to regulate the practice of psychology.

One of the ways that the NSBEP carries out the objects of the Board is that, as required by the Psychologist Act, all psychologists and applicants possess the capacity, competence and character to safely and ethically practise psychology.

It is important to recognize that the Board assesses capacity, competence and character only in the context of public protection as it relates to the practice of psychology. Where an area of concern is identified, the Board aims to provide support to the extent that the safety of the public can be maintained. The process is focused on identifying risks to prevent potential harms to vulnerable members of the public.

The legislation relevant to capacity, competence and character can be found in the Appendix.

WHO MUST MAKE A DECLARATION OF COMPETENCE, CAPACITY AND CHARACTER?

All applicants to the Nova Scotia Board of Examiners in Psychology are required to complete a Declaration of Competence, Capacity and Character as part of their application. The Declaration requires applicants to provide details about their current and past conduct.

Appropriate Competence, Capacity and Character are on-going expectations of registrants of the Nova Scotia Board of Examiners in Psychology to safely and ethically practise. Registrants, as members of a self-regulating health profession, are required to provide declarations to the Board as part of their initial application and at the time of their annual registration renewal process.

PURPOSE OF DOCUMENT

The purpose of this document is:

- to describe the process by which the Board evaluates information about an applicant or registered psychologist's conduct prior to, or during, registration with the Board; and
- to identify the criteria that the Board uses when conducting such an evaluation.

To whom does this policy apply?

This policy applies to all applicants for registration with the Board, and all registrants.

SECTION A – Applications for Registration

When is a more detailed review of an applicant's Declaration of Competence, Capacity and Character initiated?

A "yes" answer by an applicant or to any question or questions in the Declaration will not necessarily result in a refusal to register. However, the Board's Registrar will request further details from the applicant for any questions answered in the affirmative.

The Registrar initiates a review of an applicant's Declaration in cases where:

- an applicant answers "yes" to any question or questions in the Declaration; and/or
- when a confirmation of an applicant's registration from another jurisdiction in relation to the profession of psychology or another health profession indicates a finding or current proceeding of professional misconduct, incompetency, or incapacity.

Following a review, where the Registrar has reasonable ground for concern about whether the applicant is likely to practise the profession of psychology safely and ethically, the applicant will be notified in writing that the Registrar has referred the application to the Registration Subcommittee for a review (and decision) with respect to the applicant's eligibility for registration.

The applicant will be notified that the application has been referred to the Registration Subcommittee in writing and will be provided with a period of at least 30 days to submit any supporting documentation to the Registration Subcommittee.

What types of supporting documentation can the applicant provide?

The following are some examples of supporting documentation that the applicant may provide to the Board upon submission of the application for registration, or upon receiving written notification that the application has been referred to the Registration Subcommittee:

- A personal statement describing the incident(s), and an explanation as to whether or not the incident(s) currently impacts the applicant's likelihood of practising the profession competently and ethically.
- Official copies of any court documents, police records, discharges, pardons etc. (whenever possible, official copies of these types of documents must be sent directly to the Board from the proper authority);
- Evidence of successful completion of any rehabilitation or remediation imposed by a court or other regulatory body;
- Letters of reference from employers or colleagues who are aware of the facts of the matter;
- Letters from health care providers who are or were engaged in treating the applicant, providing their professional opinion on the applicant's capacity to practise.

Supporting documentation will form the material to be reviewed by the Registration Subcommittee before a decision on registration is made. Should the applicant find that additional time is needed in order to arrange for supporting documentation to be sent to the Board, the applicant must contact the Board directly to request an extension.

How does the Registration Subcommittee undertake the review?

Decisions are made in the public interest. When undertaking a review, the Registration Subcommittee will consider each application on a case by case basis, and will consider all of the information provided.

Should the Subcommittee find that additional information or clarification of any information is necessary before a decision can be reached, the Subcommittee will notify the applicant in writing. The applicant will then be afforded a period of additional time to supply any requested additional information or clarification.

What criteria are used to assess the information provided by the applicant both in the Registrar's initial review and in the Registration Subcommittee's review?

The Registration Subcommittee will consider the following criteria when reviewing the applicant's information:

1. The nature of the conduct in question:

- a. The seriousness of the conduct;
- b. Duration and frequency of the conduct;
- c. How long ago the incident(s) occurred;
- d. How the incident(s) is (are) relevant to professional practice;
- e. Whether there is a potential risk to the public posed by the applicant's conduct; and
- f. Whether there were any mitigating circumstances.

2. Honesty of the applicant

- a. Did the applicant make an honest declaration in their Declaration of Competence, Capacity and Character?; or
- b. Did the Board learn of the applicant's conduct by some other means e.g. from another regulatory board, or from an academic institution.

3. Resulting actions taken by the applicant

- a. Was there any remediation or rehabilitation taken by the applicant? ;
- b. Were there any actions indicative of remorse from the applicant? ;
- c. Was the applicant able to subsequently practise the profession of psychology following the incident(s) with no further evidence of issues of conduct occurring?

What are the potential outcomes of the Registration Subcommittee's review?

Following their review, the Registration Subcommittee will make a decision on the applicant's eligibility for registration with the Board.

The following are the potential Committee decisions:

- 1) Accept the application for registration with no terms, conditions, or limitations imposed; or
- 2) Accept the application for registration with terms, conditions, or limitations imposed; or
- 3) Refuse the application for registration.

How will the Registration Subcommittee communicate their decision to the applicant?

In all cases applicants will be provided with a written notification of the Registration Subcommittee's decision including the reasons for its decision.

What recourse does the applicant have if they are refused registration?

All decisions of the Registration Subcommittee may be appealed by the applicant to the Registration Appeal Committee within 30 days of receiving the written notification from the Registration Subcommittee.

SECTION B – Ongoing Registration

As the review of capacity, competence and character to safely and ethically practise psychology constitutes a registration decision, the same above procedures are also used for Registrants. The individual's registration remains in effect until a decision is made, which could include imposing terms, conditions, or limitations. If the Subcommittee determines that the matter is sufficient to require disciplinary action, the Subcommittee will direct the Registrar to make a complaint.

If the concerns originally arise out of a complaint, then an investigation will begin pursuant to Sections 35 through 38 of the Psychologist's Act.

DECLARATION OF COMPETENCE, CAPACITY AND CHARACTER - For New Applicants

For any items for which you have answered “Yes”, please provide the details or explanation on a separate page, indicating the item number to which you are responding.

DECLARATION OF COMPETENCE, CAPACITY AND CHARACTER - For Registration Renewal

For any items or incidents for which you have responded “Yes” (or “No” for question 19), and not previously provided written details or explanations, please provide details or explanations on a separate page, indicating the item number to which you are responding. You may be contacted for additional information regarding **any** item to which you responded “Yes” (or, “No” for item 19).

QUESTIONNAIRE Items	Yes	No
1. Have you ever had an application for registration, certification or licensing as a psychological services provider rejected?		
2. Has any diploma, certificate or license, relating to the profession of psychology or another profession, granted to you ever been suspended, revoked, or made subject to terms or conditions?		
3. Have you ever voluntarily surrendered a professional credential in response to an ethics charge in relation to psychology or another profession?		
4. Have you ever been suspended, disqualified, censured, or disciplined as a member of any professional organization?		
5. Have you ever received formal disciplinary action by an employer or any supervisor based wholly or in part on ethical issues?		
6. Have you ever been dismissed from or asked to resign from any employment due to negligence, professional misconduct or academic dishonesty?		
7. Have you ever been found to have committed professional malpractice by a court, licensing board or tribunal?		
8. Are you currently named as a defendant in any civil proceeding in which professional malpractice or professional negligence is alleged?		
9. Have you ever been censured or reprimanded for any form of		

professional misconduct including sexual harassment, sexual misconduct or other forms of harassment?		
10. Have you ever been found guilty of an academic offence by a post-secondary educational institution?		
11. Have you ever been convicted of, or pleaded guilty to a summary conviction offense or an indictable offense, other than a minor traffic offense, in a Canadian jurisdiction or elsewhere?		
12. Has there ever been a finding of contempt of court made against you, or have you ever been found to have contravened or failed to comply with any order of any Court?		
13. Have you ever been found guilty of fraud or been found to have committed fraud?		
14. Have you ever been convicted of professional misconduct, incompetence, or incapacity in Nova Scotia in relation to another profession, or in another jurisdiction in relation to the profession of psychology or another profession?		
15. Are you currently the subject of any inquiry, investigation or proceeding in respect of allegations of professional misconduct, incompetence, fitness to practise or incapacity?		
16. Do you currently use, or have you ever been treated for use of, alcohol, drugs or other controlled substances that impedes/impeded your ability to ethically practise psychology?		
17. Do you currently have, or have you ever been treated for, a physical, psychological or medical condition that impedes/impeded your ability to ethically practise psychology?		
18. Is there any event, circumstance, condition or matter not disclosed in your replies to the preceding questions touching upon your conduct, character or fitness to practise that might be an impediment to your registration as a psychologist?		
FOR CURRENT REGISTRANTS		
19. During the current calendar year, did you adhere to the Board's Continuing Competence requirements?		

(Required to provide the below information when applying for registration)

If you are or have been registered, certified or licensed by a legal or professional board in another province, state or country, or by the American Board of Professional Psychology, give full details below, including name of agency or board, date of original license or certificate, title, specialty (if designated), and licence or certificate number. Request the agency or board to confirm your status to NSBEP.

APPENDIX - RELEVANT LEGISLATION

The following legislation identifies registration requirements in relation to an applicant's past conduct:

Psychologists Act CHAPTER 32 OF THE ACTS OF 2000 as amended by 2008, c 3, s. 15; 2012, c. 48, s. 39; 2018, c. 19, ss. 1-4

With respect to an application to the Register of Psychologists (Section 15) and the same wording for an application to the Register of Candidates (Section 16 (3))

15 (4) Notwithstanding subsections (1) and (2), the Board may, in its discretion, decline to register the name of an applicant on the Register of Psychologists where the applicant

- (a) has been convicted of a criminal offence or of an offence related to the regulation of the practice of psychology;
- (b) has been found guilty of professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession;
- (c) is currently involved in a proceeding for professional misconduct, incompetency or incapacity in the Province or in another jurisdiction in relation to psychology or another profession; or
- (d) is not able to speak and write either English or French with reasonable fluency.

Following approval of the Regulations for the Registration Appeal Committee (Approved and Effective June 9, 2023), the following clauses have come into effect:

- 15(1) of Chapter 32 (Doctoral applicant to Register of Psychologists)
 - (ba) has the capacity, competence and character to safely and ethically practise psychology;
- 15(2) of Chapter 32 (Master's applicant to Register of Psychologists)
 - (ba) has the capacity, competence and character to safely and ethically practise psychology;
- 16(1) of Chapter 32 (Applicant to Register of Candidates)
 - (aa) has the capacity, competence and character to safely and ethically practise psychology;
- 18(2) of Chapter 32 (regarding Relicensing)
 - (ca) that the person has the capacity, competence and character to safely and ethically engage in the practice of psychology;

Approved: 2020/09/25

Effective: 2023/06/09