The processes followed in professional conduct matters made pursuant to paragraph 15(1)(o) of the *Medical Act, 2011* to assist in the administration of s. 39-44 of the *Act*.

1. Definitions

For the purposes of this By-Law:

(1) "*Act*" means the *Medical Act,* SNL 2011, c. M-4.02.

(2) "Allegation" means an allegation of conduct deserving of sanction filed in accordance with the *Act*.[1]

(3) "Allegation Record" means all correspondence, documentation, notes, and records possessed by CPSNL regarding an Allegation.

(4) "CAC" means the Complaints Authorization Committee of CPSNL constituted pursuant to the *Act*.[2]

(5) "CPC" means a certificate of professional conduct.

(6) "CPSNL" means the College of Physicians and Surgeons of Newfoundland and Labrador.

(7) "Complainant" means the person who filed an Allegation.

(8) "Complaint Form" means the document developed by CPSNL to be completed by a Complainant to file an Allegation.

(9) "Conduct deserving of sanction" means conduct as defined in the *Act*[3] and CPSNL By-Law 5: Definitions of Conduct Deserving of Sanction.

(10) "Faculty of Medicine" means the Faculty of Medicine of the Memorial University of Newfoundland and Labrador.

[1] *Medical Act, 2011,* s. 42.
[2] *Medical Act, 2011,* ss. 40(1)-(3).
[3] *Medical Act, 2011,* s. 39(c).

(11) “CPSNL Investigator” means the CPSNL staff member appointed to investigate an Allegation.

(12) “Patient” means a person who received medical care from the Respondent.

(13) “Professional Conduct Department” means the CPSNL staff assigned to administer professional conduct processes.

(14) “QAC” mean the Quality Assurance Committee of CPSNL constituted pursuant to the *Act*.[4]

(15) "Registrar" means the person appointed as registrar pursuant to the *Act*.[5]

(16) “Respondent” means a medical practitioner, a former medical practitioner, a learner, a former learner, a physician assistant, or a former physician assistant against whom an allegation is made pursuant to the *Act*.[6]

(17) “Third-Party Complainant” means a person who does not have a patient’s consent to file an Allegation, or the legal authority to act on behalf of the patient or to access the patient’s personal health information.

2. The Filing of an Allegation

(1) An Allegation must be signed and in writing, and may be filed by:

(a) A Complainant, by submitting a Complaint Form to CPSNL.

(b) The Registrar, in accordance with the *Act*.[7]

(2) If the Complainant is someone other than the patient, CPSNL will seek to confirm the legal authority of that person to act on behalf of the patient or to access the patient’s personal health information in order to file the Allegation.

(3) If the patient is capable, they can designate a complainant to file the Allegation. In the case of a minor, a patient who lacks capacity, or a deceased patient, the complainant must be a legally appointed representative, the nearest next-of-kin

[4] *Medical Act, 2011,* s. 69(1).
[5] *Medical Act, 2011,* s. 11.
[6] *Medical Act, 2011,* s. 39(f).
[7] *Medical Act, 2011*, ss. 41(1)-(2), 42(2)-(3), 71(4), 73(1).

who would have the presumptive right to be recognized, or a person appointed as the legal representative.

(4) Unless there is evidence to the contrary, CPSNL will assume an individual aged 16 or over is competent to file an Allegation on their own behalf. Minors aged 12 to 15 will only be permitted to file an Allegation with the signed consent of their legal guardian.

(5) In circumstances where a Complainant does not have the Patient's consent or the legal authority to file the Allegation, CPSNL will accept the Allegation for processing as a Third-Party Allegation. To ensure confidentiality, the Complainant in a Third-Party Allegation will not be provided with any confidential information relating to the Patient (if applicable) or the Respondent. The Complainant will be provided with notice of the outcome, following review by the CAC.

3. Processing an Allegation

(1) Upon receipt of an Allegation, the Professional Conduct Department will:

(a) Confirm the Allegation with the Complainant, where applicable.

(b) Notify the Respondent of the Allegation and provide a date upon which the Respondent's response is required.

(c) Update CPSNL's registrant management system to include an active Allegation, which will be indicated on any CPC requested by the Respondent.

(d) Notify the Faculty of Medicine of the existence of the Allegation if the Respondent is registered on the Education Register.

(e) Review and risk-assess the Allegation, based on the nature and severity of the Allegation as it relates to potential risk to public safety.

4. Interim Action by the Registrar

(1) Where the Registrar considers that it is in the public interest, the Registrar may issue an interim order to suspend or restrict the Respondent's licence pending review of the Allegation by the CAC[8] in accordance with s. 9 of this By-Law.

[8] *Medical Act, 2011,* s. 43(2)(b).

5. Early Resolution of an Allegation

(1) The Professional Conduct Department, on behalf of the Registrar, may attempt to resolve an Allegation with the consent of the Respondent and the Complainant.

(2) If a resolution cannot be reached within 120 days, the Allegation will be referred to the CAC so that the professional conduct process is not unduly delayed.

(a) Resolution discussions will not be included in the Allegation Record provided to the CAC.

6. Referral of an Allegation to the CAC

(1) Allegations that are not satisfactorily resolved pursuant to s. 5(1) will be referred to the CAC.[9]

(2) The Professional Conduct Department will notify the Complainant and the Respondent in writing of the referral of the Allegation to the CAC.[10]

7. Powers of the CAC

Investigation

(1) Upon referral of an Allegation to the CAC, the CAC will assign the CPSNL Investigator to investigate each Allegation pursuant to the *Act,*[11] subject to the following exceptions:

(a) The CPSNL Investigator is unable to act as investigator.

(b) An external investigator is required.

(c) An investigation is not advisable or necessary.

(2) Where one of these exceptions detailed in s. (8)(1) apply, the Allegation will be brought to the CAC for direction.

(3) The CPSNL Investigator or an external investigator appointed by the CAC will gather all the relevant information, pursuant to the powers prescribed by the Act, to allow

[9] *Medical Act, 2011,* s. 43(2)(a).
[10] *Medical Act, 2011,* s. 43(3).
[11] *Medical Act, 2011,* s. 44(1)(a), (d).

the CAC to reach an informed decision as to whether there are reasonable grounds to believe that the Respondent has engaged in conduct deserving of sanction.

(4) The CPSNL Investigator or the CAC may retain a duly qualified consultant to provide an independent opinion regarding a particular specialty or standard of practice.

(5) The CPSNL Investigator will provide the Respondent with sufficient disclosure of the investigation results to allow the Respondent to understand and respond to the Allegation.

(6) The results of the investigation are not shared with the Complainant. If the investigation yields information which the Investigator believes could benefit from clarification by the complainant, or the investigation reveals that the Complainant may be able to offer pertinent additional information, the relevant investigative findings may be shared with the Complainant for the purposes of seeking additional information.

Other Courses of Action

(7) In addition to, or instead of ordering an investigation, the CAC may exercise one or more of the following powers:

(a) Refer the Allegation back to the Registrar for alternative dispute resolution in accordance with the regulations made pursuant to the *Act*.[12]

(b) Conduct a practice review or appoint a person to conduct a practice review on its behalf.[13]

(c) Refer the Allegation to the QAC.[14]

(d) Require the Respondent to appear before the CAC.[15]

Decisions of the CAC

(8) Where an Allegation is referred to the CAC, the CAC will review the Allegation record to determine the appropriate course of action,[16] based on the following questions:

[12] *Medical Act, 2011,* s. 44(1)(a).
[13] *Medical Act, 2011,* s. 44(1)(b).
[14] *Medical Act, 2011,* s. 44(1)(c).
[15] *Medical Act, 2011,* s. 44(1)(e).
[16] *Medical Act, 2011,* s. 44.

(a) Whether the Allegation Record raises reasonable grounds to believe that the Respondent has engaged in conduct deserving of sanction.

(b) Whether the Allegation Record raises issues which do not constitute reasonable grounds to believe that the Respondent has engaged in conduct deserving of sanction, but which are within the mandate of CPSNL and which the CAC, by exercise of its powers, can address to promote high standards of practice and conduct by CPSNL Registrants.

(9) Where the CAC determines that there are no reasonable grounds to believe that the Respondent has engaged in conduct deserving of sanction, the CAC will dismiss the Allegation.[17]

(10) Where the CAC dismisses an Allegation, it may issue a direction to the Respondent pursuant to the *Act*.[18]

(11) Where the CAC determines that there are reasonable grounds to believe that the Respondent has engaged in conduct deserving of sanction, the Allegation constitutes a Complaint[19] and the CAC will exercise one of the following powers:

(a) Counsel or caution the Respondent.[20]

(b) Instruct the Registrar to file the Complaint against the Respondent and refer the Complaint to the Disciplinary Panel for a hearing before the Adjudication Tribunal.[21]

(c) Suspend or restrict the Respondent's licence pending an order or direction of the Adjudication Tribunal.[22]

(12) Written decisions of the CAC will be sent to the Complainant and the Respondent.

(13) Notice of a decision of the CAC will be communicated to the public pursuant to College By-Laws.[23]

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[17] *Medical Act,* s. 44(2).
[18] *Medical Act,* s. 44(3).
[19] *Medical Act, 2011,* s. 44(6)
[20] *Medical Act, 2011,* s. 44(6)(a).
[21] *Medical Act, 2011*, s. 44(6)(b).
[22] *Medical Act, 2011*, s. 44(6)(c).
[23] College By-Law 3: Registers (2025), College By-Law 6: Adjudication Tribunal Findings and Proceedings (2025).

8. Interim Suspension or Restriction of a Respondent's Licence

(1) Decisions on whether it is in the public interest to issue an interim suspension or restriction of a Respondent's licence will be made pursuant to the *Act*[24] and ss. 4(1) or 7(11)(c) of this By-Law.

(2) In deciding whether a Respondent's licence will be suspended or restricted, the Registrar or the CAC, as applicable, will consider the following:

(a) The risk to the public related to the conduct giving rise to the Allegation.

(b) The seriousness of the conduct giving rise to the risk.

(c) The reliability of the evidence underlying the conduct and/or Allegations.

(d) The probability of harm to the public if no action is taken.

(e) The availability of less restrictive measures to protect the public.

(3) Where a Respondent's licence is suspended or restricted, the Registrar or the CAC, as applicable, will provide written reasons for the decision.

(4) Where a Respondent's licence is suspended or restricted by the Registrar, the Registrar will review the suspension or restriction every 120 days until the CAC makes a decision on the Allegation, to consider whether there has been a material change in circumstances which may warrant reconsideration of the suspension or restriction.

(5) Where a Respondent's licence is suspended or restricted, the Respondent may request a review of the suspension or restriction, based on a material change in circumstances, by submitting a written request to the Registrar with accompanying evidence of the material change.

[24] *Medical Act, 2011,* ss. 43(1)((b) and 44(6)(c).

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