Fitness to Practise Committee Terms of Reference

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Purpose: The Fitness to Practise Committee protects the public by overseeing a non-disciplinary, remedial process for registrants experiencing incapacity. The process supports continued or resumed practice when the registrant can provide safe and competent care.

Authority: The Committee is appointed by the Nova Scotia Regulator of Physiotherapy (NSRPT) Board of Directors pursuant to section 122 of the Regulated Health Professions Act, 2023, c. 15 (RHPA). Its authority is set out in the RHPA, the Regulated Health Professions General Regulations, applicable Physiotherapy Regulations, Bylaws and policies.

Criteria for Membership: No employee of a regulatory body or member of the NSRPT Board shall serve on the Committee. A registrant must hold a licence while appointed to the Committee. Members must meet the other eligibility requirements in section 8 of the RHPA, including the restrictions concerning professional association board service and public representatives. Members shall complete the orientation and training required by NSRPT.

Support: The Committee is supported by NSRPT staff and/or legal counsel as needed. Panels will be supported by independent legal counsel as needed. Assessors, investigators and other subject-matter experts may be engaged as required within the Committee's authority.

Membership Recruitment/Appointment: The Board shall establish a Fitness to Practise Committee comprised as follows:

a) at least one public representative; and

b) such other number of registrants and public representatives as the Board determines.

The Board shall appoint a Chair and Vice-Chair. The Vice-Chair shall act as Chair in the Chair's absence. Where neither is available, the Chair may appoint a Committee member to act as Chair for the purposes set out in section 122(4) of the RHPA.

Panel Membership: Upon referral of a matter, the Chair shall appoint a panel or joint panel of at least three Committee members to act as the Committee, including at least one public representative, in accordance with section 123(1) of the RHPA. Joint panels must also meet the composition requirements in the General Regulations.

The Committee Chair may sit on a panel and, if so, shall chair it. Otherwise, the Committee Chair shall appoint a panel Chair. Members shall disclose conflicts of interest and shall not participate in a matter where a conflict or reasonable apprehension of bias exists.

Terms of Office: Members shall hold office for a term set by the Board, not exceeding three years, and are eligible for reappointment. Continuation in office is subject to section 8(6) of the RHPA. A member whose term expires while serving on a matter remains a member for that matter until it is concluded, as required by section 124(4).

Mandate: The Committee exercises its statutory powers and functions to address incapacity and protect the public. The Registrar determines eligibility for referral using Board-approved criteria. The Committee does not provide treatment or replace the professional conduct process where that process is required.

The Committee's functions include the following:

- review and approve agreements between the Registrar and registrant permitting continued or resumed practice under section 127(2) of the RHPA;
- consider assessments, reports and other relevant evidence, including information about previous Fitness to Practise matters required by section 127(3);
- consider requests from the Registrar concerning a registrant's progress or removal from the process under section 127(4);
- meet with registrants requesting return to practice or changes to practice terms and conditions, and approve or deny requests under section 128. Approved return-to-practice terms and variations require the registrant's agreement;
- consider compliance reports and, where needed, appoint an investigator to investigate possible non-compliance with a remedial agreement under section 15 of the General Regulations;
- refer a registrant back to the Registrar where the grounds in section 129 are met, including withdrawal of consent, non-compliance, an immediate threat to others or continued participation no longer serving NSRPT's objects;
- require payment of expenses authorized by section 127(5), and consider costs under section 45(2) of the General Regulations when a registrant is referred back to the Registrar under section 129;
- exercise the powers, privileges and immunities of a commissioner under the Public Inquiries Act, except the powers of contempt, arrest and imprisonment, as provided in section 125 of the RHPA;
- set its own meeting procedures, consistent with the RHPA, regulations, Bylaws and applicable policies; and

- issue reasoned written decisions and maintain appropriate records of proceedings and decisions.

Jurisdiction: The Committee retains jurisdiction over ongoing terms and conditions of practice agreed with it until those terms and conditions are met or the matter is referred back to the Registrar under section 129, in accordance with section 130. Any suspension or other immediate protective action must have a separate lawful basis under the RHPA.

Meetings: Frequency as needed to consider agreements, requests and registrant progress. Case meetings are closed to the public and may be held electronically. The Committee shall convene a meeting when a registrant makes a request under section 128(1). The Registrar may participate and present evidence and submissions as permitted by section 14 of the General Regulations.

Quorum: Pursuant to section 124(2) of the RHPA, quorum consists of three members of the panel, including at least one public representative, with the remaining members holding the designations required by the Bylaws.

Decision Making: A decision requires the vote of a majority of the appointed panel, as required by section 124(3) of the RHPA. Decisions shall be independent, impartial, evidence-based and proportionate, with public protection as the paramount consideration.

Registrants shall receive notice, the information needed to respond, and a reasonable opportunity to make submissions. They may be represented by legal counsel, a union representative or another representative at their own expense. The Committee shall provide procedural fairness, reasonable accommodations where needed, and written reasons for substantive decisions.

Confidentiality: Members shall maintain confidentiality and use or disclose information only as authorized or required by law. The Registrar is responsible for licensing-status notifications under section 131 of the RHPA, without disclosing the nature of the registrant's diagnosis.

Reporting Mechanism: The Chair shall provide de-identified information on Committee activity, timeliness, resource needs and process issues as required for Board oversight and annual reporting. Decisions on individual matters remain with the appointed panel and are not submitted to the Board for approval.

Additional Skills for Chair: The Chair must have experience conducting meetings or be willing to develop the required competencies.