

---

## MRCNS PROFESSIONAL PRACTICE POLICY

---

### PROFESSIONAL CONDUCT POLICY: FITNESS TO PRACTISE

#### Introduction and Definitions

For the purposes of this Policy, “incapacity” means the status whereby a registrant has or had a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered the registrant unable to practise with competence or that endangers or may have endangered the health or safety of clients.

The Midwifery Regulatory Council of Nova Scotia (MRCNS) recognizes that if a registrant has become unable to practise safely, ethically or competently because they are suffering from an incapacity, a voluntary alternative to the disciplinary process focused on achieving public protection through remediation should be available. This process is called the “Fitness to Practise (FTP)” program.

The FTP program is a type of informal resolution pursuant to section 38(8)(b) of the *Midwifery Act* (the “Act”).

The following are the **Eligibility Criteria** for a registrant to participate in the FTP program:

- The registrant is or has been incapacitated as defined in this Policy and the registrant’s conduct in question is causally connected to, or has a nexus with, the incapacity.
- The registrant voluntarily agrees to enter the program and undergo any assessments and/or disclose any health information requested by MRCNS.
- The registrant demonstrates a willingness to participate in timely remediation of their health condition(s).
- The registrant complies with any requests to temporarily suspend their practice or practise with conditions and/or restrictions, pending resolution of the matter.
- The Registrar has not determined that a referral to the FTP program would be contrary to the public interest for any reason.

The Registrar must be satisfied that addressing the matter through the FTP program is consistent with MRCNS’s public interest mandate. The Registrar may consider any relevant factors in making this determination, including:

- (a) The nature and number of incidents involved.
- (b) The impact of the incidents on clients, colleagues, the workplace, the public or the reputation of the profession.
- (c) The registrant’s prior professional conduct history and/or fitness to practise history.
- (d) Any steps already taken by the registrant to remediate their incapacity.

## Procedure

### Entering into the FTP Program

1. (a) Where:
  - i) a complaint is received which involves potential incapacity (or an incapacity concern arises in the course of an investigation into an existing complaint);
  - ii) in the absence of a complaint, a person discloses to MRCNS that a registrant may be incapacitated and the Registrar initiates a complaint pursuant to s. 33(b) of the *Act*; or
  - iii) in the absence of a complaint, a registrant self-discloses to MRCNS that they may be incapacitated and the Registrar initiates a complaint pursuant to s. 33(b) of the *Act*;

the Registrar may consider whether the registrant in question may be eligible for the FTP program pursuant to the Eligibility Criteria. If additional information is required to make that determination, the Registrar may attempt to obtain that information or may appoint an investigator to do so.
- (b) In considering the information obtained pursuant to subparagraph (a), the Registrar will determine whether interim measures are required in the public interest, which may be a voluntary undertaking or a suspension or restrictions pursuant to s. 39 of the *Act*.
2. The Registrar will consider the available information and:
  - (a) If the registrant is *not* eligible for consideration for the FTP program, the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or the *Regulations*.
  - (b) If the registrant *is* eligible for consideration for the FTP program, the Registrar will obtain (or direct an investigator to obtain) any additional information that may be required to determine whether the registrant is incapacitated, which may include participating in a health assessment(s).

### Determination of Incapacity

3. If the registrant is eligible but *does not* agree to provide the information requested, the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or the *Regulations*.
4. If the registrant is eligible and *does* agree to provide the information requested, but the information establishes that the registrant is *not* incapacitated, the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or the *Regulations*.

### Remediation of Incapacity (Part 1)

5. If the information obtained establishes that the registrant *is* incapacitated, the Registrar may propose a “Remedial Agreement” (Part 1) to the registrant, setting out the terms and conditions

that the Registrar considers appropriate to remedy the incapacity. The terms may include an agreement to refrain from practise or to restrict the registrant's practice, and other terms and conditions that must be satisfied before the registrant can enter into a Return to Practise Agreement.

6. If the registrant and the Registrar *do not* agree on the terms of a Remedial Agreement, the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or the *Regulations*.
7. If the registrant and the Registrar *do* agree on the terms of a Remedial Agreement, the Registrar will monitor compliance with the Remedial Agreement.
8. If the Registrar believes that the registrant may have breached the Remedial Agreement or has otherwise not been successful in completing its terms, the Registrar will determine whether any aspect of the matter requires further action, which may include the filing of a new complaint and/or any other procedural option available pursuant to the *Act* or the *Regulations*.

#### Return to Practise (Part 2)

9. If the Registrar determines that a registrant has successfully completed the terms of the Remedial Agreement, the Registrar will enter into negotiations with the registrant on the terms of a "Return to Practise (RTP) Agreement" (Part 2). The terms of the RTP Agreement may include: terms and conditions that must be satisfied before the registrant returns to practise; and terms and conditions applicable after the registrant returns to practise.
10. If the registrant and the Registrar *do not* agree to the terms of the RTP Agreement, the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or the *Regulations*.
11. If the registrant and the Registrar *do* agree to the terms of the RTP Agreement, and the Registrar is satisfied that the RTP Agreement contains terms and conditions that can reasonably be expected to protect the public, the Registrar will monitor the terms of the RTP Agreement and take the following actions, as appropriate:
  - (a) Pursuant to the terms of the RTP Agreement, conditions and/or restrictions on the registrant's licence (if any) will be lifted, as they are successfully completed.
  - (b) If there is reason to believe that a registrant has:
    - i) failed to meet the terms and conditions of the RTP Agreement;
    - ii) poses a threat to the public; or
    - iii) poses a threat to their own health or safety or the health and safety of others,the Registrar will determine whether any aspect of the matter requires further action, which may include any other procedural option available pursuant to the *Act* or *Regulations*, including, where appropriate, the filing of a new complaint and/or consideration of interim measures.

### Publication and Notification

12. While it may be necessary to disclose some information in the course of conducting an investigation in order to determine whether a registrant is eligible for the FTP program, disclosure relating to the registrant's potential health condition should be limited to the minimum amount of information necessary to make that determination.
13. If at any stage of the FTP program the registrant has agreed to refrain from practise or there are conditions and/or restrictions on the registrant's practice, the details of the limitations on the registrant's practice will be disclosed as set out in the relevant agreement.
14. Notwithstanding paragraph 13, at no time will a public notification regarding a registrant's registration status during their participation in the FTP program disclose the specific nature of their incapacity.

**Approved by the MRCNS on March 18, 2025**