

Capacity, Competence and Character for Safe and Ethical Practice

Section:	Registration		
Applicable Legislation:	Sections 14 (1)(a), 19 (3)(h), 25 (1)(g), and 39 (1)(i) of Medical Practitioners Regulations made under Section 11 of the Medical Act		
Approved by: Council	Approval Date: March 22, 2024	Reviewer: Deputy Registrar	Review Date: March 2027

PREAMBLE

The *Medical Practitioners Regulations*¹ require all registrants have the current capacity, competence and character to safely and ethically practise. This is relevant at the time of initial registration or licensing, while licensed and at the time of annual licensing renewal.

PURPOSE

This policy elaborates on the legislative requirements for capacity, competence and character to safely and ethically practise in Nova Scotia.

More specifically, the policy:

- 1) Defines capacity, competence and character;
- 2) Outlines the College's expectations of applicants and registrants in reporting their conduct to the College; and
- 3) Outlines the College's processes for assessing the capacity, competence and character.

SCOPE

This policy applies to all persons who:

- Are applying for initial registration or licensure; or
- Hold a licence to practise in Nova Scotia; or
- Are applying for renewal of licensure.

For purposes of this policy, all such persons are identified as “applicants” or “persons”.

DEFINITIONS OF CAPACITY, COMPETENCE, AND CHARACTER

Capacity: The *Medical Act*² defines capacity as the medical, physical, mental or emotional status of an applicant or member that impacts that person's ability to practise in a competent manner.

Competence: The *Medical Act* defines competence as the ability to integrate and apply the knowledge, skills, attitude and judgement required to practise safely, ethically and professionally in a designated role and practice setting.

Incompetence is defined as the lack of competence in the respondent's care of an individual or delivery of medical services that, having regard to all circumstances, rendered the respondent unsafe to practise at the time of such care of the individual or delivery of medical services or that renders the respondent unsafe to continue in practice without remedial assistance.

Character: There is no one definition in the *Medical Act*, or in case law for what qualities constitute sufficient "character" to permit registration and licensing. A general review of the law suggests that "character" is proven when there are reasonable grounds for belief that the person will practise with decency, integrity and honesty, in accordance with the law and in a manner that ensures the protection of the public and the upholding of the public interest in practice. Guidance for physicians can be obtained from the CMA Code of Ethics and Professionalism^{3,4,5}, which articulates the ethical and professional commitments and responsibilities in the medical profession.

EXAMPLES OF CONCERNS REGARDING COMPETENCE, CAPACITY AND CHARACTER

The following are non-exhaustive examples of circumstances that may give rise to concerns regarding a person's capacity, competence or character and may require action as set out in this policy:

- The person provides false, incomplete, ambiguous or misleading information to the College
- The person has failed the Canadian certification examination in their specialty two or more times
- The person is convicted of, or plead guilty to, an offence inconsistent with the professional behavior of a registrant (unless the person has received a Record Suspension (formerly known as a "Pardon"). Consideration would be given to:
 - Nature and frequency of the offence(s)
 - Relevance of the offence to position held
 - Age at which the offence was committed
 - Recency of the offence
 - Evidence of rehabilitation
 - General character since the offence.
- The person obtains or attempts to obtain registration or licensure by fraudulent means;
- The person has been the subject of a complaint or investigation by any regulatory authority that resulted in a settlement agreement, undertaking, licensing sanction or any form of resolution apart from dismissal;
- The person has engaged in academic misconduct;
- The person has engaged in discriminatory conduct or has failed to demonstrate cultural competence;
- The person has violated any of the College's policies or legislation;
- The person committed any act or acts inconsistent with expected professional and ethical behavior that have not been sufficiently remedied;

- The person has been found at fault in a civil action which may bring into question their ability to practise competently, ethically or professionally;
- The person has been denied any licence or permit which required proof of character, or had such permit or licence subject to conditions; or
- The person has had privileges varied, suspended or revoked, or agreed to resign on the basis of issues of competence, character, or capacity.

POLICY

1. In any application for registration or licensure, a person must provide accurate and complete information to the College that is fully responsive to all questions asked on any College documents and does not omit any information that may be relevant to the assessment of the application. All persons must provide information in utmost good faith.
2. The onus is on the person to establish their capacity, competence and character.
3. Canadian-trained physicians who have failed the Canadian certification examination in their specialty two or more times will automatically be referred to the Registration Committee for a review of their competency.
4. Where the Registrar has any concerns respecting the person's capacity, competence or character, the Registrar must refer the matter to the Registration Committee for decision and the Registrar may initiate a Registrar's complaint respecting the person.

CONCERNS ABOUT CAPACITY, COMPETENCE AND CHARACTER

1. College staff review all information received regarding capacity, competence and character and take steps to confirm the accuracy and completeness of the information.
2. If other concerns regarding a person's capacity, competence or character are identified, the matter is referred to the Registrar for consideration.
3. The Registrar reviews all available information concerning the person's past and current conduct, including but not limited to:
 - a) Self-disclosure;
 - b) Gaps in training or practice;
 - c) Information provided by other registrants (such as references or information supplied under the *Professional Standards and Guidelines Regarding Duty to Report Health Professionals*⁶);
 - d) Criminal record checks;
 - e) Information provided by other medical regulatory authorities or partner organizations (such as a Certificate of Professional Conduct or disclosure of changes in privileges from the health authority); and
 - f) Any other information identified or received by the College.

RESOURCES

1. [Medical Practitioners Regulations](#)
2. [Medical Act](#)
3. [CMA Code of Ethics and Professionalism](#)
4. [Chauhan v Health Professions Appeal and Review Board and the College of Physicians and Surgeons of Ontario, \(2013\) ONSC 1621](#)
5. [Lum v Alberta Dental Association and College, 2016 ABCA 154](#)
6. [Professional Standards and Guidelines Regarding Duty to Report Health Professionals](#)