

## FACULTY OF NURSING PROFESSIONAL UNSUITABILITY BY-LAW

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### 1.00 Jurisdiction

#### 1.01 General

The Faculty of Nursing may require a student to withdraw from the Faculty pursuant to the procedures set out in this By-Law when the student has been found unsuited, on consideration of competence or professional fitness, for the practice of nursing. A student may be required to withdraw at any time throughout the academic year or following the results of examinations at the end of any academic term. This right to require withdrawal prevails notwithstanding any other provision in the Faculty's Rules or Regulations.

#### 1.02 Grounds for required withdrawal

A student may be required to withdraw from the Faculty when the student has:

- been guilty of such conduct which, if participated in by a practising registered nurse would result in suspension or expulsion of the practitioner from the practice of nursing or such other disciplinary actions available against a practitioner by the governing body of the profession;
- practised incompetently in any clinical setting;
- jeopardized professional judgment through self-interest;
- demonstrated behaviour with respect to other students, colleagues, faculty or the public which is exploitive, irresponsible or destructive;
- acquired a criminal conviction which according to the established Faculty processes was determined to be of such a nature as to bring disrepute to the profession, or by which in the opinion of the Faculty, the student demonstrated poor judgment, lack of integrity or (other) unsuitability for the profession;
- in accordance with provisions of the *Manitoba Human Rights Code* and the Faculty's duty to reasonably accommodate the special needs of its students, any health condition, the occurrence of which impairs essential performance required for the health profession;
- been under the influence of alcohol or drugs while participating in client care, any other professional activity, or any activity related to the practice of the health profession;
- demonstrated unethical behaviour as specified by the Canadian Nurses' Association *Code of Ethics*;
- The Canadian Nurses' Association *Code of Ethics*, as the ethical basis for nursing in Canada, will be considered in every situation in which an inquiry is being held into the conduct of a student in the practice of nursing.

2.00 Professional Unsuitability Committee (PUC)

2.01 There shall be established within the Faculty a standing committee known as the Professional Unsuitability Committee (PUC) to hear and determine matters of competence and/or professional fitness for the practice of nursing. Appeals from the PUC shall be heard by the Senate Committee on Appeals.

Membership in the PUC shall be as follows:

- Chair (non-voting, except in the case of tie): tenured faculty member to be appointed by the Dean, Faculty of Nursing.

Committee Members:

- two full time faculty members, at least one of whom shall be tenured/tenure track, elected by the Council of the Faculty of Nursing
- two students from the Faculty of Nursing; one third year or fourth-year undergraduate and one graduate student, appointed by the respective student organizations
- two representatives of the Nursing Profession to be appointed by the College of Registered Nurses of Manitoba (CRNM), preferably with experience in dealing with CRNM disciplinary matters.

3.00 Procedure

3.01 The Dean (or appropriate designate), shall refer matters which in her/his opinion involves conduct or circumstances described in Article 1.01 and 1.02 herein, to the PUC in a written report, setting out the name of the student involved, the alleged facts and the alleged ground(s) warranting withdrawal pursuant to Article 1.01 and 1.02.

3.02 The PUC shall:

- i) send a Notice of Hearing to the named student pursuant to Article 4.01 by registered mail to the last known address of the student as found on the Faculty's records. At the student's request, additional information may be sent by regular mail, email or facsimile;
- ii) consider whether just cause exists to suspend the student while the matter is being determined and if so, to issue an interim suspension to the student;
- iii) at all times act expeditiously to complete the hearing;
- iv) determine whether any of the grounds requiring withdrawal under Article 1.01 and 1.02 exist at hearing of the matter pursuant to this By-Law; and
- v) make a disposition in accordance with Article 6.00 herein.

3.03 Once a reference has been made to the PUC, the proceedings may continue notwithstanding that the student has subsequently voluntarily withdrawn from the

Faculty, or has refused to participate in the proceedings.

#### 4.00 Notice to Students

4.01 The Chair of the PUC shall, as soon as possible after receipt of the referral, inform the student in writing of the grounds for referral to the PUC, as well as the membership of the PUC and the date, time, and place for the hearing by the PUC of the matters set out in the referral.

The student may provide a written response to the grounds. Such written response should be provided to the PUC within one week of the hearing date.

4.02 The Notice from the Chair shall include a statement that if the allegations contained in the reference are established to the satisfaction of the PUC then the student may be required to withdraw from the Faculty.

#### 5.00 Hearing Procedures

5.01 The student may appear in person and may choose to be represented by a Student Advocate, legal or other counsel.

5.02 The Faculty and Student may call witnesses as needed. Written notice to each party of witnesses to be called by the other party shall be given prior to the hearing.

5.03 The hearing shall be closed to all persons except the members of the PUC, Faculty Representative(s), the student, the designated representative of the student, and any witnesses.

5.04 The student or her/his representative shall have the right to hear and to cross examine witnesses, to have access to all documents submitted to the PUC for consideration, to call witnesses and to submit other evidence.

5.05 The student shall not be required to give evidence but if the student elects to do so, then the student may be questioned by members of the PUC.

5.06 A quorum for the PUC shall be 4 members and the chair of the membership as referred to in section 2.01 above.

5.07 A simple majority of the members hearing the matter is required for any finding or for the determination of the appropriate disposition of the matter.

5.08 The Chair of the PUC shall vote only to break a tie.

5.09 Members of the PUC shall be bound by confidentiality in respect of information received in Committee. Information will only be disclosed as is reasonably necessary to

implement the investigation, the resolution or the terms of any disposition imposed, or as required by law.

5.10 a) A faculty member shall not be disqualified from sitting as a member of the PUC hearing the matter by reason only that such faculty member has had previous contact with the student or has prior personal knowledge of the matter.

b) the student whose case is to be dealt with shall be permitted to challenge and thereby cause to be disqualified not more than two members of the PUC. In such a case, the Chair may replace the disqualified members pursuant to section 2.01.

5.11 The results of the hearing and the reasons therefore shall be conveyed in writing to the student, the Student Advocate, and/or the designated representative of the student where applicable, with copies to the Dean of the Faculty.

#### 6.00 Disposition of the Matter

6.01 The PUC shall, after hearing all the evidence, meet in closed session with its members only, to:

- i) consider the evidence;
- ii) make its findings using a balance of probabilities standard;
- iii) if the allegations are proven, determine the appropriate disposition of the matter;
- iv) if the allegations are not proven, dismiss the matter and/or make any other recommendation the PUC deems appropriate.

6.02 The PUC may make any disposition it deems appropriate in the circumstances. Without limiting the generality of the foregoing the following options, alone or in combination, are available:

- i) determine that no further action be taken;
- ii) allow the student to remain in the program and attach conditions prescribing future conduct by the student. Such conditions to remain in effect for any period of time the PUC deems appropriate;
- iii) reprimand the student in writing;
- iv) suspend the student from the Faculty for a specified period of time;
- v) require the student to withdraw from the Faculty indefinitely;
- vi) attach conditions which must be fulfilled before any application for re-admission to the Faculty can be considered;
- vii) expel the student from the Faculty with no right to apply for re-admission to the Faculty.

#### 7.00 Appeals

7.01 If the student wishes to appeal a disposition of the PUC, such appeal may be made to the Senate Appeals Committee in accordance with the procedures of that body.

- 7.02 In the event of an appeal, the implementation of any decision of the PUC may be suspended until the matter has been disposed of by the Senate Appeals Committee.
- 7.03 Notwithstanding the above, if the President of the University is satisfied that it is in the best interests of the University, the President may at any time make an order, subject to final disposition of the appropriate review authority, suspending the student from participating in any program of the University.

8.00 Records

A record of any finding of professional unsuitability and/or disposition related thereto shall be kept on the student's academic file within the Faculty. All information relating to the hearing before the PUC shall be kept in the Dean's office.

9.00 Amendments

- 9.01 This By-Law may be amended by Senate alone, or by Senate after approval of such amendment(s) by Faculty Council.

Revisions approved by Senate April 5, 2006