

Background Check Findings/Disclosure by Applicants

Policy Section: Administration of the Act	Policy Number: AA-25	Approved By: CEO/Registrar
Regular Policy Review Frequency:	Date Approved: August 8, 2018	Date Reviewed/Revised: September 20, 2023

Purpose:

To provide the policy for assessing registration eligibility of applicants where either the background check identifies a finding or an applicant discloses a finding.

Fitness to practice takes into account the ability to be honest and trustworthy. Good character is based on an individual's conduct, behaviour and attitude. It also takes account of any past criminal or unacceptable behaviour that is likely to be incompatible with professional registration. A person's character must be compatible with the capability to independently engage in safe and effective practice.

Policy:

- 1) In this policy, "applicant" means a person who applies for initial registration or reinstatement of registration.
- 2) An applicant must make written disclosure of a charge, conviction, or a finding of guilt (including a conditional discharge, absolute discharge, or suspended sentence) for a criminal offence or careless driving causing death under *The Highway Traffic Act* of Manitoba or other similar legislation.
- 3) An applicant must also make written disclosure of their name appearing on a child abuse registry and/or an adult abuse registry.
- 4) In accordance with ss. 2.6(9) of the *General Council Regulation*, an applicant must submit to the Registrar any other information requested by the Registrar, including information pertaining to the criminal record check, child abuse registry check or adult abuse registry check provided by the applicant.
- 5) The following principles are applicable in assessing fitness to practice through background checks:
 - a) Applicant situations will be considered on an individual basis considering their unique circumstances;
 - b) Each applicant will be assessed to determine what effect a charge, conviction, finding of guilt or placement on an abuse registry might have on that applicant's ability to meet the ongoing requirements for practice as a registered nurse (including, for example, Practice Expectations for Registered Nurses, and the Code of Ethics);
 - c) If an applicant has a charge, conviction, finding of guilt or has been placed on an abuse registry, the relevance, seriousness and circumstances in which the offence was committed must be taken into account.

Processes:

- 1) Where the College becomes aware that an applicant has a criminal charge/conviction/finding of guilt or that the applicant's name appears on an abuse registry:
 - a) The College will confirm that the applicant disclosed the information on their application form;
 - b) The matter will be reported to the Registrar;
 - c) The applicant will be required to:
 - i) provide a written submission detailing the circumstances surrounding the offence or, if applicable, the circumstances that led to their name being placed on the abuse registry;
 - ii) provide, in the case of a criminal charge / conviction or finding of guilt, a criminal record check based on fingerprinting that includes a vulnerable sector search; and,
 - iii) supply sufficient legal or other documentation (if no legal documentation is available) of the offence including:
 - (1) the date of the offence;
 - (2) the applicant's age at the time of the offence;
 - (3) the type of offence;
 - (4) the specific nature of the offence including a description of circumstances of the offence; and
 - (5) the sentence, if imposed.
 - d) The applicant may also be asked to provide documentary evidence of rehabilitation efforts and a copy of any pardon granted;
 - e) The Registrar may undertake further investigations, including obtaining court records and confirming the accuracy and completeness of the applicant's description of events.

- 2) The following factors will be considered in the registration eligibility assessment:
 - a) The circumstances surrounding the offence including:
 - i) the age of the applicant when the offence occurred;
 - ii) the situation of the applicant at the time of the offence; and,
 - iii) any extenuating circumstances.
 - b) The applicant's explanation of the offence;
 - c) The extent to which the applicant's explanation of the offence and outcome differs from any information that the College obtains during the assessment of the application;
 - d) The nature and frequency of the offence including whether:
 - i) the applicant was in a position of trust when the offence occurred;
 - ii) the offence demonstrated dishonest behaviour;
 - e) The offence demonstrated behaviour that would be considered professional misconduct, conduct unbecoming, a breach of the Act or the Code of Ethics, or which is otherwise relevant to his/her suitability to practise nursing?



- f) Whether the behaviour was of a nature that may pose a threat to the safety of others. Considerations may include:
 - i) offences related to sexual assault/abuse, violence or use of a weapon;
 - ii) offences related to honesty and integrity;
 - iii) offences related to drug or alcohol use; and
 - iv) multiple or recurring convictions.

 - g) The penalty imposed and whether that penalty has been satisfied. When the College receives information that indicates that the penalty or conditions of the court have not been met, the College will suspend consideration of the application pending a review of the reasons for the unmet conditions.

 - h) The length of time passed from the date of the offence;

 - i) How the individual's situation has changed since the offence was committed;

 - j) Whether there is any connection between the conviction/finding of guilt and nursing practice; and,

 - k) The degree of potential risk posed to the public if the individual were to be registered.
- 3) The College is the sole decision-making authority when determining if the information submitted to the College will be recognized for the purpose of registration eligibility.