

Bord Altranais agus Cnáimhseachais na hÉireann (the Nursing and Midwifery Board of Ireland) (the “Board”) Publication Policy regarding Part 9 of the Nurses and Midwives Act 2011 (as amended by the Regulated Professions (Health and Social Care) (Amendment) Act 2020) for the publication of information on Fitness to Practise Inquiries and Sanctions

The Board is committed to transparency in its work and strives to ensure the confidence of the public. These principles will underpin any decision taken under this policy.

Any reference in this document to "the Transcript" means the transcript of the fitness to practise inquiry by the Fitness to Practise Committee.

Any reference in this document to "the Report" means the report of the Fitness to Practise Committee following a fitness to practise inquiry pursuant to section 67 of the Act.

1. Information to be published – Public Inquiry.

Following a Public Inquiry, the findings of the Fitness to Practise Committee will be published in accordance with the Procedures of the Fitness to Practise Committee (20th June 2014).

Where a Public Inquiry is held, the Board will, upon receipt of the Report and where findings have been made against a nurse/midwife, decide on the sanctions to be imposed. Following a decision on sanction, the Board will also consider the issue advising the public of the sanction imposed and whether to publish all or any part of the Transcript or all or any part of the Report. Where confirmation of sanction by the High Court is required, publication will not occur until after confirmation of sanction has occurred.

Advising the Public

Where the Board decides to impose a sanction other than the sanctions listed at Section 82(1)(k) and (l) (i.e. sanctions other than censure, advice and/or admonishment), the Board is required to advise the public when any sanction imposed takes effect in respect of a registered nurse or midwife.

Where the Board decides to impose the sanctions listed at Section 82(1)(k) and (l) (censure, advice and/or admonishment), the Board is required to advise the public when any sanction imposed takes effect in respect of a registered nurse or midwife, if it is satisfied that it is in the public interest to do so.

Publication of Transcript or Report

Further, following either of the foregoing, the Board may proceed to publish all or any part of the Transcript or all or any part of the Report (whether with or without information tending to identify any parties to the proceedings concerned), if the Board is satisfied that it is in the public interest to do so.

2. Information to be published – Inquiry held otherwise than in public.

In the event of an Inquiry held otherwise than in public, the issue of advising the public must be considered in the same way as with a public inquiry.

Where the Board decides to impose a sanction other than the sanctions listed at Section 82(1)(k) and (l) (i.e. sanctions other than censure, advice and/or admonishment), the Board is required to advise the public when any sanction imposed takes effect in respect of a registered nurse or midwife, notwithstanding that the inquiry took place in private.

Where the Board decides to impose the sanctions listed at Section 82(1)(k) and (l) (censure, advice and/or admonishment), the Board is required to advise the public when any sanction imposed takes effect in respect of a registered nurse or midwife, if it is satisfied that it is in the public interest to do so, notwithstanding that the inquiry took place in private.

Publication of Transcript or Report

In respect of publication of the Transcript and/or the Report, the Board may proceed to publish all or part of the Transcript and all of any part of the Report (whether with or without information tending to identify any parties to the proceedings concerned), if the Board is satisfied that it is in the public interest to do so. The Board may redact some or some parts of the Transcript and the Report or choose not to publish part or all of the Transcript or the Report to ensure the rights of any relevant individuals are protected. Where confirmation of sanction by the High Court is required, publication of sanction will not occur until after confirmation of sanction has occurred.

3. Information to be Published – Conviction for offences

Section 55(1)(i) provides that if a nurse or midwife is convicted in the State of an offence triable on indictment or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State, the Board may decide to cancel the registration of that nurse or midwife pursuant to section 55 (6). Cancellation of registration pursuant to Section 55(6) requires confirmation by the High Court. Following such confirmation, the Board is required to advise the public when the sanction takes effect.

4. Manner of Publication

If, pursuant to paragraphs 1, 2 or 3 above, publication of measures (i.e. the sanction imposed) is to be made then they shall be published in the following manner:

- (a) The NMBI e-Zine; and
- (b) on the Board's website (www.nmbi.ie).

If, pursuant to paragraphs 1, 2 or 3 above, part or all of the Transcript or the Report is to be published, then it will be published on the Board's website (www.nmbi.ie).

In cases of significant public interest, the Board or Chief Executive Officer (or designate) may also publish the sanctions by means of a Press Statement.

5. Decisions Not to Publish

Where a decision not to publish is taken by the Board, the rationale for this decision will be documented in the minutes of the Board meeting. The Board will consider all of the circumstances of each particular case in deciding whether or not it is in the public interest to

publish or not.

6. Notification of Sanctions to Certain Persons

Notification in writing is required in all cases where the sanction imposed has taken effect and that sanction is one of the measures listed at subsection (1) of Section 82 to the Health Service Executive and such other persons as the Board considers fit as soon as practicable after any of the measures takes effect.

The Board must notify the employer of a registered nurse or registered midwife in writing of a sanction imposed by the Board if the registered nurse or registered midwife is employed by an employer other than the Health Service Executive and the identity of the employer is known to the Board, in accordance with Section 82(3).

The Board must also notify the relevant regulatory body in another jurisdiction in writing of any measures imposed pursuant to Section 82(1) in relation to a registered nurse or registered midwife where the Board has reason to believe that:-

- a. The nurse or midwife is registered in another jurisdiction; and
- b. The measure may not have come to the attention of the relevant regulatory body in that jurisdiction.

In addition, the Board may provide that regulatory body with copies of documents relevant to the measure imposed under Section 82(1), including a copy of the Report.

Notification of the findings and the sanction, if any findings were made, will be made to the complainant in all cases.

7. Measures applied by a jurisdiction other than the State

Where the Board becomes aware that, under the law of a jurisdiction other than Ireland, a measure corresponding to any measure equivalent to those measures that may be imposed by the Board under Section 82(1) has been taken in relation to a registered nurse or registered midwife in that other jurisdiction, the Board shall, if it is satisfied that it is in the public interest to do so:-

- a. Notify the Health Service Executive in writing of the measure as soon as is practicable.
- b. Notify an employer of a registered nurse or registered midwife of any such measure, if the employer's name is known to the Board.
- c. Notify the relevant regulatory body in another jurisdiction in writing of any such measure, if the Board has reason to believe that:-
 - i. The nurse or midwife in question is registered in another jurisdiction; and
 - ii. The measure may not have come to the attention of the regulatory body duly authorised to perform the relevant regulatory functions in that jurisdiction.

- d. Advise the public when any measure comes to the knowledge of the Board, per Section 83(1)(a)(ii).

8. Notification of Order made under Section 58 of the 2011 Act

The Board must notify the relevant regulatory body in another jurisdiction in writing of any Order made by the High Court under Section 58(3)(a) of the 2011 Act in relation to a registered nurse or registered midwife, including any order suspending that registered nurse or registered midwife, where the Board has reason to believe that:-

- a. The nurse or midwife is registered in another jurisdiction or has made an application to be registered in another jurisdiction which has not yet been determined; and
- b. The measure may not have come to the attention of the relevant regulatory body in that jurisdiction.

Approved by the Board – 23 March 2022.

Schedule 1

Relevant legislation

1. Part 9, Nurses and Midwives Act 2011 (the “Act”) (as amended by the Regulated Professions (Health and Social Care) (Amendment) Act 2020).

Legal Basis

2. Section 83 of the Act (as amended) is entitled “Information Board may Publish in Public Interest” and provides as follows:-

83(1). The Board shall, (if satisfied that, in the case of a measure referred to in section 82(1)(k) or (l) or paragraph (a)(ii), it is in the public interest to do so):-

(a) advise the public when:-

(i) any measure referred to in section 82(1) takes effect under this Part in respect of a nurse or midwife, or

(ii) any measure referred to in section 82(2) in respect of a nurse or midwife comes to the knowledge of the Board,

and

(b) if satisfied that it is in the public interest to do so, publish a transcript of all or any part of the proceedings of the Fitness to Practise Committee at an inquiry or publish all or any part of a report referred to in section 67(1) of the Fitness to Practise Committee (and, in either case, whether with or without any information which would enable all, or any one or more than one, of the parties to the proceedings concerned to be identified)..

(2) The Board shall not publish anything under this section which is inconsistent with a decision (if any) of the Court arising from the performance of a function under section 73 or 74.

3. Section 82 of the Act requires the Board to give certain notifications and states as follows:-

82. (1) The Board shall give notice in writing to the Health Service Executive and such other persons as it thinks fit as soon as is practicable after any of the following measures take effect under this Part:

(a) the cancellation of a nurse's or midwife's registration;

(b) the restoration of a nurse's or midwife's' registration;

(c) the removal of a nurse's or midwife's registration;

(d) the suspension of a nurse's or midwife's registration;

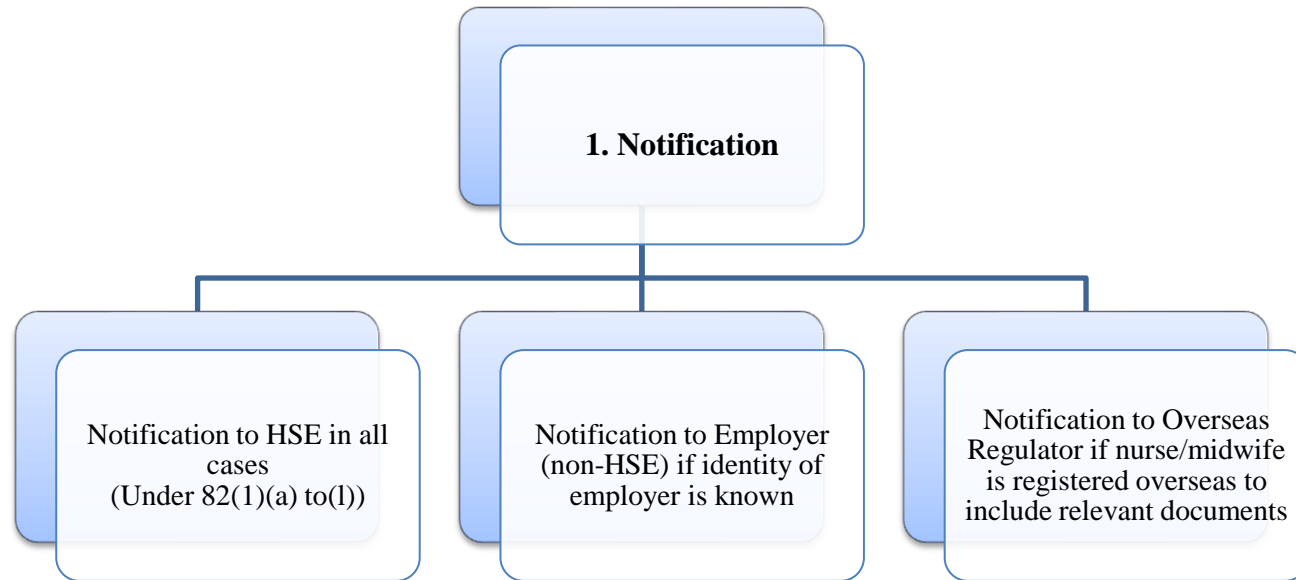
(e) the termination of the period during which a nurse's or midwife's registration is suspended;

- (f) the transfer of a nurse's or midwife's registration to another division of the register of nurses and midwives;
 - (g) the attachment of conditions to a nurse's or midwife's registration;
 - (h) the removal of conditions attached under this Part to a nurse's or midwife's registration;
 - (i) the prohibiting of a nurse or midwife from applying for a specified period for the restoration of the nurse's or midwife's registration;
 - (j) the censuring and fining of a registered nurse or registered midwife;
 - (k) the censuring of a registered nurse or registered midwife;
 - (l) the advisement or admonishment of a registered nurse or registered midwife.
- (2) Where it comes to the Board's attention that, under the law of a state other than the State, a measure corresponding to one referred to in any of paragraphs (a) to (l) of subsection (1) has been taken in relation to a registered nurse or registered midwife, the Board shall if satisfied that is in the public interest to do so and, as soon as is practicable, give notice in writing to the Health Service Executive of the measure.
- (3) The Board shall (if satisfied that, in the case of a measure referred to in subsection (2), it is in the public interest to do so) give notice in writing to an employer (other than the Health Service Executive) where:-
- (a) it comes to the Board's attention that any measure referred to in subsection (1) or (2) has been taken in relation to a registered nurse or registered midwife employed by the employer, and
 - (b) the employer's name is known to the Board.
- (4) (a) Paragraph (b) applies where—
- (i) it comes to the Board's attention that any measure referred to in subsection (1) has been taken in relation to a registered nurse or registered midwife,
- and
- (ii) the Board has reason to believe that—
 - (I) the nurse or midwife is registered in another jurisdiction, and
 - (II) that measure may not have come to the attention of the body duly authorised to perform functions in that jurisdiction that correspond to the functions of the Board.
- (b) The Board shall give notice in writing to that body of that measure and may, notwithstanding any provision of Directive 2005/36/EC or of the Regulations of 2017, provide that body with copies of documents relevant to that measure (including a copy of the report concerned referred to in section 67(1)).

- (5) (a) Paragraph (b) applies where—
 - (i) it comes to the Board’s attention that any measure referred to in subsection (2) has been taken in relation to a registered nurse or registered midwife, and
 - (ii) the Board has reason to believe that—
 - (I) the nurse or midwife is registered in another jurisdiction, and
 - (II) that measure may not have come to the attention of the body duly authorised to perform functions in that jurisdiction that correspond to the functions of the Board.
- (b) The Board shall, if satisfied that it is in the public interest to do so, give notice in writing to that body of that measure

Schedule 2 – Flowcharts

Decision Trees – Notification and Publication of Sanctions following receipt of a completed FTP Report where allegations are proven and where a sanction is imposed.



Section 82 (1) Sanctions

- (a) the cancellation of a nurse's or midwife's registration;
- (b) the restoration of a nurse's or midwife's registration;
- (c) the removal of a nurse's or midwife's registration;
- (d) the suspension of a nurse's or midwife's registration;
- (e) the termination of the period during which a nurse's or midwife's registration is suspended;
- (f) the transfer of a nurse's or midwife's registration to another division of the register of nurses and midwives;
- (g) the attachment of conditions to a nurse's or midwife's registration;
- (h) the removal of conditions attached under this Part to a nurse's or midwife's registration;
- (i) the prohibiting of a nurse or midwife from applying for a specified period for the restoration of the nurse's or midwife's registration;
- (j) the censuring and fining of a registered nurse or registered midwife;
- (k) the censuring of a registered nurse or registered midwife;
- (l) the advisement or admonishment of a registered nurse or registered midwife.

An undertaking to being censured by the Board (82)(1)(k) to the PPC under section 57A or to the subcommittee of the FTPC under section 65 will be notified in accordance with section 82 of the Act.

