

**Regulations Respecting the Registration, Licensing and Professional Accountability  
of Audiologists and Speech-Language Pathologists  
made by the Executive of the Speech and Hearing Association of Nova Scotia  
under Section 12 of Chapter 3 of the Acts of 2015,  
the *Audiologists and Speech-Language Pathologists Act***

**Part 1: Interpretation**

**Citation**

1 These regulations may be cited as the *Audiologists and Speech-Language Pathologists Regulations*.

**Definitions**

2 (1) In these regulations,

“Act” means the *Audiologists and Speech-Language Pathologists Act*;

“applicable fee” means the applicable fee set by the Board;

“bridging education” means a program approved by the Registrar to address gaps in the competencies of a member or an applicant for membership that are identified through a competence assessment or through information provided by the member or applicant;

“category”, in relation to a licence, means a category of licence set out in Section 3;

“competence assessment” means a process that assesses competence by using methods and tools such as any of the following to assess an array of competencies: interviewing, verification of documents, reference reviews, direct observation, reflective practice, self-assessments, chart audits, written or oral tests;

“continuing competence program” means a program approved by the Board for maintaining and enhancing the continuing competence of members;

“Fitness to Practise Committee” means a committee appointed under Section 10 to address issues of incapacity;

“Fitness to Practise Program” means the processes for addressing issues of incapacity set out in Sections 55 to 58;

“independent review committee” means a committee appointed under subsection 51(3) to review dismissals of complaints by the Registrar;

“interim agreement” means an agreement with the Registrar under Section 56 as part of the Fitness to Practise Program;

“licensing year” means a 12-month period determined by the Board for the issuance, renewal and expiry of licences;

“notice of hearing” means the notice of hearing required by subsection 45(2) of the Act;

“practising licence” means a practising licence (audiology) or practising licence (speech-language pathology), as the context requires;

“practising roster” means the roster for the practising licence (audiology) category or the practising licence (speech-language pathology) category, as the context requires;

“remedial agreement” means an agreement with the Fitness to Practise Committee under Section 57 as part of the Fitness to Practise Program;

“restricted practising licence” means a restricted practising licence (audiology) or a restricted practising licence (speech-language pathology), as the context requires;

“restricted practising roster” means the roster for the restricted practising licence (audiology) category or the restricted practising licence (speech-language pathology) category, as the context requires;

“restricted temporary licence” means a restricted temporary licence (audiology) or a restricted temporary licence (speech-language pathology), as the context requires;

“temporary licence” means a temporary licence (audiology) or a temporary licence (speech-language pathology), as the context requires.

- (2) In the Act and these regulations, “public representative” means a member of the Board under clause 8(1)(c) of the Act.
- (3) In the definition of “approved education program” in clause 2(a) of the Act, “degree program” means a university degree program at a minimum of a masters level.

## **Part 2: Registration, Licensing and Membership**

### **Licence Categories, Register and Public Record**

#### **Categories of licences**

3 The following are the categories of licences:

- (a) practising licence (audiology);
- (b) practising licence (speech-language pathology);
- (c) restricted practising licence (audiology);
- (d) restricted practising licence (speech-language pathology);
- (e) temporary licence (audiology);
- (f) temporary licence (speech-language pathology);
- (g) restricted temporary licence (audiology);
- (h) restricted temporary licence (speech-language pathology).

#### **Information in registers and rosters**

4 (1) The Board must keep a register for members practising audiology and a register for members practising speech-language pathology.

- (2) In addition to the member's name as required by subsection 13(1) of the Act, a register must contain all of the following information for each member:
- (a) date of birth;
  - (b) name and location of the education program referred to in clause 15(1)(a) completed by the member;
  - (c) year of graduation from the education program referred to in clause (b);
  - (d) date of entry in the register;
  - (e) registration number.
- (3) The Registrar must keep a separate roster for each category of licence.

**Restoration of name in roster—conditions or restrictions continue on licence**

- 5 On restoration of a person's name to a roster under subsection 26(2) of the Act, any conditions or restrictions previously imposed on the person's licence that have not expired remain in effect on any new licence issued to the person.

**Public record**

- 6 All of the following information for each person licensed to practise audiology or speech-language pathology must be included in the record required to be available to the public under subsection 13(3) of the Act:
- (a) their name and registration number;
  - (b) their category of licence;
  - (c) any conditions or restrictions on their licence, if the Registrar determines it is in the public interest to make the conditions or restrictions known to the public;
  - (d) details of any licensing sanctions imposed on them that are not subject to a publication ban.

**Committees**

**Appointment to committee or panel as non-member**

- 7 To be appointed under the Act as a non-member to a committee or panel of a committee, a person must meet the definition of "public representative".

**Registration Committee composition and voting**

- 8 (1) The Registration Committee consists of at least all of the following:
- (a) 1 public representative;
  - (b) 1 audiologist;
  - (c) 1 speech-language pathologist.
- (2) A quorum of the Registration Committee consists of any 3 members of the Committee, at least 1 of whom practises the profession of the person whose application is being reviewed.

- (3) A decision of the Registration Committee on an application requires the majority vote of the quorum of the Committee that is reviewing the application.

#### **Registration Appeal Committee composition and voting**

- 9** (1) The Registration Appeal Committee consists of at least all of the following:
- (a) 1 public representative;
  - (b) 1 audiologist;
  - (c) 1 speech-language pathologist.
- (2) A quorum of the Registration Appeal Committee consists of any 3 members of the Committee, at least 1 of whom practises the appellant's profession.
- (3) A decision of the Registration Appeal Committee on an appeal requires the majority vote of the quorum of the Committee that is considering the appeal.
- (4) A member of the Registration Appeal Committee must not concurrently serve on the Registration Committee.

#### **Fitness to Practise Committee**

- 10** (1) The Fitness to Practise Committee must be appointed by the Board and consists of at least all of the following:
- (a) 1 public representative;
  - (b) 2 members.
- (2) A majority of the members of the Fitness to Practise Committee constitutes a quorum.
- (3) A decision of the Fitness to Practise Committee requires a majority vote of its members present.
- (4) The Board must appoint a chair of the Fitness to Practise Committee.

#### **Proceedings before committees**

- 11** (1) This Section applies to the Registration Committee, the Fitness to Practise Committee and the Registration Appeal Committee.
- (2) In this Section, "proceeding" means any of the following:
- (a) any proceeding of the Registration Committee or the Fitness to Practise Committee;
  - (b) an appeal hearing conducted by the Registration Appeal Committee.
- (3) The members of a committee may waive notice of any meeting or proceeding of the committee.
- (4) A proceeding of a committee is not invalidated because a member of the committee fails to receive notice of the proceeding or the meeting at which the proceeding takes place and nothing precludes the members from waiving notice of the proceeding or meeting.
- (5) If the term of office of any person sitting on a committee expires during a proceeding of the

committee, the Chair of the committee may extend the person's term of office until the proceeding concludes.

- (6) A committee may impose a publication ban on any portion of its decision, as the committee considers necessary.

### Registration and Licensing

#### Registration and licensing decisions by Registrar

- 12 (1) After receiving the information required from an applicant for registration, licensing or renewal of their licence, the Registrar must do 1 of the following:
- (a) approve the application and register or issue or renew the licence of the applicant in accordance with Section 15 or 16 of the Act;
  - (b) deny the application;
  - (c) in an application for licensing or renewal of a licence, impose conditions or restrictions on the licence;
  - (d) refer the matter to the Registration Committee if there is any issue regarding whether the applicant meets the criteria for registration, licensing or renewal of their licence.
- (2) If the Registrar determines that an applicant does not meet the criteria for registration, licensing or renewal of a licence and denies the application or imposes conditions or restrictions on the licence, the Registrar must notify the applicant by doing all of the following:
- (a) providing the applicant with a written decision with reasons;
  - (b) informing the applicant of their right to have the decision reviewed by the Registration Committee.

#### Waiving registration or licensing criteria

- 13 (1) The Registrar, the Registration Committee or the Registration Appeal Committee must waive any of the criteria for registration or licensing for either of the following reasons:
- (a) the criteria conflicts with the requirements of the *Canadian Free Trade Agreement*;
  - (b) it is required by law.
- (2) The Registration Committee or the Registration Appeal Committee may waive any criteria for registration or licensing or renewal of a licence if the waiver is consistent with the objects and purpose of the College.

#### Application and criteria for registration

- 14 (1) An applicant for registration must submit a completed application form on a form prescribed by the Registrar together with all of the following:
- (a) payment of the applicable fee, within the time determined by the Registrar and through a method acceptable to the Registrar;
  - (b) proof satisfactory to the Registrar that the applicant

- (i) meets the criteria in subsection (2),
  - (ii) is the person named in the documentation submitted in support of the application;
  - (c) if currently or previously registered or licensed in another jurisdiction, a certificate of standing from each jurisdiction where the applicant practised to disclose whether there are any outstanding complaints, prohibitions, conditions or restrictions against the member in that jurisdiction;
  - (d) any information the Registrar requires to establish whether Section 41 of the Act applies to the applicant;
  - (e) any additional information required by the Registrar to assess whether the applicant meets the criteria for registration.
- (2) An applicant for registration must meet all of the following criteria:
- (a) they must meet the criteria for entry in a roster in Section 15;
  - (b) there must be no outstanding complaints, prohibitions, conditions or restrictions against the member practising audiology or speech-language pathology in the Province that preclude registration.

**Criteria for entry in rosters**

15 (1) The following are the criteria a person is required to meet for entry in a roster for any category of licence:

- (a) subject to subsection (2), they are a graduate of 1 of the following:
  - (i) an approved education program,
  - (ii) an education program that qualified them to be an audiologist or speech-language pathologist in the jurisdiction where the education program was held that, in the opinion of the Registration Committee, is equivalent to an approved education program,
  - (iii) an education program that, in the opinion of the Registration Committee, when taken together with their relevant experience, provides them with comparable competencies to those of a person who graduated from an approved education program;
- (b) they have successfully completed any examinations approved by the Board in the profession for which they seek a licence;
- (c) if they have practised in another jurisdiction since being issued a previous licence, a certificate of standing from each jurisdiction where they practised, disclosing whether there are any outstanding complaints, prohibitions, conditions or restrictions against them in that jurisdiction;
- (d) they have demonstrated proficiency in the English language in the manner prescribed by the Registrar;
- (e) they are a Canadian citizen or legally entitled to live and work in Canada;
- (f) they have liability protection, malpractice insurance or another form of indemnity in the

manner and amount required by the Registrar;

- (g) except for the restricted practising category and the temporary restricted practising category, they are not prohibited or restricted from practising through the decision of any adjudicating body or through voluntary agreement or otherwise;
  - (h) they have the current capacity, competence and character to safely and ethically practise;
  - (i) they are eligible for the licence category for which they have applied.
- (2) In addition to the criteria in subsection (1), a graduate of a program other than an approved education program must complete any competence assessment required by the Registration Committee and any bridging education required as a result of the competence assessment as selected by the Registration Committee.

#### **Practising roster—criteria**

- 16 (1) The Registrar must enter the name of a member in a practising roster if the member submits the applicable application form together with payment of the applicable fee, and all of the following are met:
- (a) the member continues to meet the registration criteria in subsection 14(2);
  - (b) the member's ability to practise audiology or speech-language pathology is not subject to any conditions or restrictions;
  - (c) the member meets the requirements of the continuing competence program;
  - (d) within the 5 years immediately before the date of their application for entry in the practising roster, the member has met 1 of the following:
    - (i) the member graduated from an approved education program,
    - (ii) the member completed at least 1000 hours in practice,
    - (iii) the member completed a competence assessment and any bridging education required as a result of the competence assessment, as selected by the Registration Committee.

#### **Practising roster—permitted activities**

- 17 A member whose name is entered in a practising roster may do all of the following:
- (a) use a protected title corresponding to the profession for which they are licensed in the practising roster;
  - (b) practise audiology or speech-language pathology within the member's individual scope of practice;
  - (c) if elected, hold office on the Board;
  - (d) serve as an appointed member on any committee of the College;
  - (e) receive all official College publications;
  - (f) attend, participate and vote at meetings of the College.

**Practising licences—criteria**

**18** The criteria for a practising licence is as set out in Section 16 for entry in the practising roster for the category of licence.

**Practising licences—term**

**19 (1)** Except as provided in subsection (2), a practising licence remains in effect until the end of the licensing year in which it is issued or an earlier expiry date specified on the licence.

**(2)** A practising licence ceases to be valid if any of the following occurs:

- (a) the licence is suspended or revoked;
- (b) the member's registration is revoked;
- (c) the licence is changed through the imposition of terms, conditions or restrictions under the Act or these regulations;
- (d) the member fails to continue to meet the criteria for a practising licence;
- (e) the licence is surrendered in accordance with Section 18 of the Act;
- (f) the licence is replaced by another category of licence.

**Practising licences—application and criteria for renewing**

**20 (1)** The Registrar must renew a member's practising licence on receipt from the member of all of the following:

- (a) a completed application on a form prescribed by the Registrar, together with payment of the applicable fee and any penalties incurred for late application;
- (b) proof satisfactory to the Registrar that the member
  - (i) continues to meet the registration criteria set out in clause 14(2)(b), and
  - (ii) meets the renewal criteria in subsection (2), except for the requirements in clauses 15(1)(a) to (d);
- (c) if they practised outside the Province in the previous year, a certificate of professional conduct from the other jurisdiction to prove there are no outstanding complaints, prohibitions, conditions or restrictions in the other jurisdiction that would preclude the member practising in the Province.

**(2)** To renew a practising licence, a member must meet all of the following criteria:

- (a) they continue to meet the criteria for entry in the roster as set out in Sections 15 and 16, except that for a renewal application the 5-year period for completion of the hours of practice under subclause 16(1)(d)(ii) or the competence assessment and bridging education under subclause 16(1)(d)(iii) is the 5 years immediately before the date of the renewal application;
- (b) they meet the requirements of the continuing competence program.

**Restricted practising roster—criteria**

**21** The Registrar must enter the name of a member in a restricted practising roster if all of the following are



met:

- (a) the member continues to meet the registration criteria in subsection 14(2);
- (b) conditions or restrictions have been imposed on the member's practising licence
  - (i) with the member's consent, by the Registrar, the Registration Committee or the Registration Appeal Committee, or
  - (ii) as a result of a decision of any committee;
- (c) the member meets the criteria for a practising licence, except the criterion in clause 15(1)(g) of not being prohibited or restricted from practising audiology or speech-language pathology.

**Restricted practising rosters—permitted activities**

**22** A member who holds a restricted practising licence has all of the privileges set out in Section 17, except to the extent that the restrictions or conditions modify those privileges.

**Restricted practising licences—criteria**

**23** The criteria for a restricted practising licence is as set out in Section 21 for entry in a restricted practising roster.

**Restricted practising licence—term**

**24 (1)** Except as provided in subsection (2), a restricted practising licence remains in effect until the end of the licensing year, or another date specified by the Registrar.

**(2)** A restricted practising licence ceases to be valid if any of the following occurs:

- (a) the licence is suspended or revoked;
- (b) the member's registration is revoked;
- (c) the member fails to comply with the conditions or restrictions on their licence;
- (d) the licence is replaced by another category of licence;
- (e) the licence is surrendered in accordance with Section 18 of the Act.

**Restricted practising licence—application and criteria for renewing**

**25 (1)** The Registrar must renew a member's restricted practising licence on receipt from the member of all of the following:

- (a) a completed application on a form prescribed by the Registrar together with payment of the applicable fee and any penalties incurred for late application;
- (b) proof satisfactory to the Registrar that the member
  - (i) continues to meet the registration criteria set out in clause 14(2)(b), and
  - (ii) meets the renewal criteria in subsection (2), except for the requirements in clauses 15(1)(a) to (d);
- (c) if they practised outside the Province in the previous year, a certificate of professional

conduct from the other jurisdiction to prove that there are no outstanding complaints, prohibitions, conditions or restrictions in the other jurisdiction that would preclude the member practising in the Province.

- (2) To renew a restricted practising licence, a member must meet all of the following criteria:
- (a) they continue to meet the criteria for entry in the roster set out in Sections 15 and 21;
  - (b) they meet the requirements of the continuing competence program.

**No review or appeal of certain conditions and restrictions with renewal of restricted practising licence**

**26** Conditions or restrictions agreed upon or ordered by an investigative panel or a professional conduct panel cannot be reviewed or appealed when a member applies for renewal of their restricted practising licence under Section 25, and the investigative panel or the professional conduct panel retains jurisdiction over any conditions or restrictions imposed by it.

**Restrictions or conditions on previous licence**

**27** Restrictions or conditions imposed on a restricted practising licence that have not expired remain in effect on any new licence issued to the member.

**Temporary licence and restricted temporary licence—criteria**

**28 (1)** The Registration Committee may direct the Registrar to issue 1 of the following licences to an applicant who fails to meet the requirements for a practising licence or a restricted practising licence, if it is otherwise consistent with the objects of the College to issue a licence to the applicant:

- (a) a temporary licence;
- (b) if conditions or restrictions are imposed, a restricted temporary licence.

(2) The Registrar must notify an applicant of a decision under subsection (1).

(3) The Registrar must enter the name of an applicant who is issued a licence under this Section into a roster as follows:

- (a) for an applicant issued a temporary licence, into the temporary roster;
- (b) for an applicant issued a restricted temporary licence, into the restricted temporary roster.

(4) On denying an applicant a temporary licence or a restricted temporary licence, the Registration Committee must provide the applicant with a written decision with reasons, and must inform the applicant of their right to appeal the decision to the Registration Appeal Committee.

**Temporary licence and restricted temporary licence—term**

**29 (1)** A temporary licence or a restricted temporary licence must be issued for a specified period of time of no longer than 6 months, but may be extended in accordance with subsections (3) and (4).

(2) A temporary licence or a restricted temporary licence ceases to be valid if any of the following occurs:

- (a) the licence is suspended or revoked;
- (b) the member's registration is revoked;

- (c) the member fails to continue to meet the criteria for a temporary licence or a restricted temporary licence, as determined by the Registration Committee;
  - (d) the licence is replaced by another category of licence;
  - (e) the licence is surrendered in accordance with Section 18 of the Act.
- (3) A temporary licence holder may apply to the Registration Committee for an extension to the term of their licence.
- (4) If it considers it appropriate, the Registration Committee may extend the term of a temporary licence holder's licence by up to 6 months if the Registration Committee determines that the member continues to meet the criteria set out in Section 28.
- (5) A decision of the Registration Committee under subsection (4) is final.

#### **Temporary roster and restricted temporary roster—permitted activities**

30 A member who is entered in the temporary roster or the restricted temporary roster may do all of the following:

- (a) practise within the member's individual scope of practice, subject to, for a restricted temporary licence holder, any conditions or restrictions imposed by the Registration Committee;
- (b) attend and participate in meetings of the College as a non-voting member;
- (c) use protected titles, as determined by the Registration Committee.

#### **Licence suspension for failure to comply with renewal requirements**

31 (1) The licence of a member who fails to comply with the requirements of these regulations respecting licence renewal is suspended.

- (2) If a person's licence is suspended under subsection (1), the Registrar must send the person written notice of the suspension, including a statement that the person may apply to the Registrar for the re-issuing of the licence on complying with the renewal requirements by the date determined by the Registrar and paying any applicable fees.
- (3) The Registrar may, at the expense of the person whose licence is suspended, take any steps that the Registrar considers necessary in the circumstances to bring a licence suspension under this Section for failure to comply with licence renewal requirements to the attention of the public and other affected parties.
- (4) A suspension issued under this Section is not a licensing sanction.

#### **Members' records of hours of work**

- 32 (1) A member must keep a record of the hours that the member worked in practice that covers at least the immediately preceding 5 years.
- (2) The College may at any time conduct an audit of records kept under subsection (1) to ensure the validity of data respecting the hours worked in practice that is recorded on applications to the College.

### Part 3: Review and Appeal of Registration and Licensing Decisions

#### Definitions for Part 3

33 In this Part,

“appeal” means an appeal of a decision of the Registration Committee;

“appeal hearing” means a proceeding before the Registration Appeal Committee conducted in accordance with Section 39;

“appellant” means an applicant for registration, licensing or renewal of a licence who is appealing a decision of the Registration Committee;

“applicant” means an applicant for registration, licensing or renewal of a licence who is requesting a review of a decision of the Registrar;

“application” means an application for registration, licensing or renewal of a licence.

#### Registration Committee Decisions

##### Registration and licensing decisions referred to registration committee

34 (1) The Registration Committee must review an application, including all associated information provided by the Registrar, that is referred to the Registration Committee

(a) under clause 12(1)(d); or

(b) as a result of an applicant seeking a review after receiving a notice under subsection 12(2).

(2) Before making its decision under this Section, the Registration Committee may do 1 or both of the following:

(a) request that the Registrar obtain new information;

(b) extend the term of any existing licence held by the applicant until it has made a decision.

(3) On reviewing an application for a licence or renewal of a licence, the Registration Committee may do any of the following:

(a) for issuance or renewal of any licence other than a practising licence, approve or remove the conditions or restrictions imposed by the Registrar or impose different conditions or restrictions on the licence;

(b) for issuance or renewal of a practising licence, advise the applicant that conditions or restrictions are required and recommend a restricted practising licence or invite the applicant to apply for another category of licence.

(4) If the Registration Committee determines that an applicant meets the criteria for registration or licensing or renewal of a licence, the Committee must approve the application and direct the Registrar to register the applicant or issue or renew the licence.

(5) If the Registration Committee determines that an applicant does not meet the criteria for registration or licensing or renewal of a licence and denies the application or imposes conditions or restrictions on the licence, the Committee must notify the applicant by doing all of the following:

- (a) providing the applicant with a written decision with reasons;
- (b) informing the applicant of their right to appeal to the Registration Appeal Committee.

### Appeals

#### Registration Appeal Committee must hear appeal

- 35 (1) Except as provided in subsection (2), an appeal from a decision of the Registration Committee must be heard by the Registration Appeal Committee.
- (2) Subsection (1) does not apply if the collaborative registration review process under Section 22 of the *Regulated Health Professions Network Act* is used to conduct a review of the process.

#### Making an appeal

- 36 (1) An appeal must be made in writing to the Registrar no later than 30 days after the date the Registration Committee's decision is sent to the applicant.
- (2) An appeal must stipulate the grounds for the appeal.
- (3) An appellant must pay the applicable fee.
- (4) The fee paid under subsection (3) must be refunded to the appellant if the appeal results in the granting of registration or the issuing or renewing of a licence.

#### Information provided to Registration Appeal Committee and appellant

- 37 Within a reasonable time after receiving an appeal, the Registrar must provide the Registration Appeal Committee and the appellant with all of the following:
- (a) a copy of the written decision being appealed;
  - (b) a copy of all records related to the appeal and in the possession of the College, subject to any lawful restrictions;
  - (c) any written information the Registrar considers necessary.

#### Security may be required

- 38 (1) On application from the College, the Registration Appeal Committee may require an appellant to deposit security for an appeal with the College in an amount and in the form the Committee determines.
- (2) The security paid under subsection (1) must be refunded to the appellant if the appeal results in the granting of registration or the issuing or renewing of a licence.

#### Powers of Registration Appeal Committee

- 39 (1) The Registration Appeal Committee may determine its own procedure, which may include doing any of the following:
- (a) ordering pre-appeal hearing procedures, including pre-appeal hearing conferences that are held in private, and direct the times, dates and places for those procedures;
  - (b) ordering that an appeal hearing or pre-appeal hearing conference or parts of a hearing or a pre-appeal hearing conference be conducted using a means of telecommunication that permits the parties and the Registration Appeal Committee to communicate simultaneously;

- (c) administering oaths and affirmations;
  - (d) receiving and accepting any evidence and information on oath, affidavit or otherwise as the Registration Appeal Committee considers fit, whether admissible in a court of law or not;
  - (e) adjourning or postponing a proceeding;
  - (f) amending or permitting the amendment of any document filed in connection with the appeal hearing.
- (2) The Registration Appeal Committee may determine whether an appeal hearing must be conducted through written submissions, or whether the parties will have an opportunity to appear before the Registration Appeal Committee to present evidence or submissions.

**Time and place of appeal hearing**

40 If the Registration Appeal Committee determines that the parties have an opportunity to appear at an appeal hearing, the Registration Appeal Committee must fix a reasonable time and place for the appeal hearing.

**Notice of appeal hearing to parties**

41 At least 14 days before the date set for an appeal hearing at which the parties have an opportunity to appear, the Registrar must provide written notice of the hearing to the parties.

**Conduct of appeal hearing**

- 42 (1) The parties to an appeal hearing are the College and the appellant.
- (2) In an appeal hearing, the parties have the right to all of the following:
- (a) representation by legal counsel;
  - (b) if the parties have an opportunity to appear, the opportunity to present evidence and to make submissions;
  - (c) disclosure of all relevant information and documents.
- (3) The appellant is a compellable witness in a hearing.
- (4) An appeal hearing at which the parties have an opportunity to appear must be electronically recorded.

**Evidence at appeal hearing**

- 43 (1) Except as provided in subsection (2), none of the following evidence is admissible at an appeal hearing unless the opposing party has been given the specified opportunity or information at least 10 days before the date of the appeal hearing:
- (a) for written or documentary evidence, an opportunity to examine the evidence;
  - (b) for expert evidence, a copy of the expert's written report or, if there is no written report, a written summary of the evidence and the expert's qualifications;
  - (c) for witnesses' testimony, if the Registration Appeal Committee authorizes the attendance of witnesses, the identity of the witnesses.

- (2) The Registration Appeal Committee may allow the introduction of evidence that would be otherwise inadmissible and may make any directions it considers necessary to ensure that a party is not prejudiced by the admission of the evidence.

#### **Appellant fails to attend appeal hearing**

**44** If an appellant fails to attend their appeal hearing, the Registration Appeal Committee may proceed with the appeal hearing in the appellant's absence and take any action authorized by the Act and these regulations.

#### **Conclusion of appeal hearing**

- 45 (1)** The Registration Appeal Committee must render its decision with reasons within a reasonable time after
- (a) the appeal hearing concludes, for an appeal hearing at which the parties had an opportunity to appear; or
  - (b) it completes its review of the written evidence and written submissions, for an appeal hearing conducted by written submissions.
- (2) The Registration Appeal Committee may make any decision the Registrar or the Registration Committee could have made with respect to the appellant's application, and may do any of the following:
- (a) order the imposition of conditions or restrictions on the appellant's licence;
  - (b) assess any costs to be paid by the appellant and determine how any security deposited under Section 38 is to be credited toward the costs or refunded to the appellant.
- (3) Other than a refund of the fee under subsection 36(4) and security under subsection 38(2), an appellant is not entitled to any costs for an appeal.
- (4) In clause (2)(b) and subsection (3), "costs" includes all of the following:
- (a) expenses incurred by the College in the application process;
  - (b) expenses incurred by the College for the activities of the Registration Appeal Committee;
  - (c) the College's solicitor and client costs, including disbursements and HST, relating to the application and the appeal, including those of College counsel and counsel for the Registration Appeal Committee;
  - (d) fees for retaining a court reporter and preparing transcripts of the proceedings;
  - (e) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear for the appeal;
  - (f) additional costs resulting from an appellant causing the postponement of an appeal hearing.

#### **Decision of Registration Appeal Committee is final**

**46** A decision of the Registration Appeal Committee is final.

## Part 4: Professional Conduct Process

### Definitions for Part 4

47 In this Part,

“caution” by an investigative panel means a determination that a member may have breached the standards of professional ethics or practice expected of members in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, and a caution is not considered to be a licensing sanction; and

“counsel” by an investigative panel means a determination that a member could benefit from professional guidance from the College about the subject matter of the complaint in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, and a counsel is not considered to be a licensing sanction.

### Initiating and Investigating Complaint

#### Notification of complaint

48 On receiving or initiating a complaint, the Registrar must send a copy of the complaint to the respondent.

#### Preliminary investigation of complaint

49 (1) On receiving or initiating a complaint, the Registrar may appoint an investigator to conduct a preliminary investigation of the complaint under this Section.

- (2) When conducting a preliminary investigation, an investigator may request additional written or oral explanation from the complainant, the respondent or a third party.
- (3) The Registrar or an investigator may, with a respondent’s consent, arrange for the respondent to do 1 or more of the following during a preliminary investigation:
  - (a) if the Registrar or investigator has reasonable or probable grounds to believe that the respondent has an issue of incapacity, submit to physical or mental examinations by a qualified person or persons designated by the Registrar, and authorize the reports from the examinations to be given to the Registrar;
  - (b) submit to a review or audit of the respondent’s practice by a qualified person or persons designated by the Registrar, and authorize a copy of the review or audit to be given to the Registrar;
  - (c) complete a competence assessment or other assessment or examination to determine whether the respondent is competent to practise, and authorize the assessment or examination report to be given to the Registrar;
  - (d) produce any records kept about the respondent’s practice as the Registrar or investigator considers appropriate.
- (4) Expenses incurred to take any action under subsection (3) must initially be paid by the College, but may be awarded as costs against the respondent under any of the following circumstances:
  - (a) if a finding is made against the respondent at a hearing;
  - (b) as part of the terms of a consensual reprimand or consensual conditions or restrictions;



- (c) as part of an informal resolution;
- (d) by consent.

**Resolution of complaint by Registrar**

**50 (1)** Taking into account the results of a preliminary investigation, the Registrar must do 1 or more of the following:

- (a) dismiss the complaint and notify the complainant and the respondent of the dismissal if the Registrar decides that any of the following apply:
    - (i) the complaint is outside the jurisdiction of the College,
    - (ii) the complaint cannot be substantiated,
    - (iii) the complaint is frivolous or vexatious,
    - (iv) the complaint constitutes an abuse of process,
    - (v) the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a caution;
  - (b) informally resolve the complaint if the Registrar considers that the complaint may be satisfactorily resolved consistent with the objects of the College;
  - (c) authorize the resignation of the member;
  - (d) if the member and the Registrar agree, refer the member to the Fitness to Practise Program;
  - (e) refer the matter to be considered by an investigative panel.
- (2)** If on disposing of a complaint the Registrar considers it useful, the Registrar may provide written advice relevant to the complaint that is of a non-disciplinary nature to any of the following persons:
- (a) the complainant;
  - (b) the respondent;
  - (c) any person affected by the complaint.
- (3)** The Registrar must provide a copy of any written advice provided under clause (2)(a) or (c) to the respondent.

**Review of complaint dismissal**

- 51 (1)** No later than 30 days after a complainant is notified of a dismissal by the Registrar under clause 50(1)(a), the complainant may submit a written request to the Registrar for review of the dismissal by an independent review committee.
- (2)** The Registrar must send any request for a review of a complaint dismissal received under subsection (1) to both of the following:
- (a) the respondent;

- (b) the Chair of the Investigative Committee.
- (3) On receiving a request for review of a complaint dismissal under clause (2)(b), the Chair of the Investigative Committee must appoint an independent review committee to review the dismissal.

**Independent review committee**

- 52** (1) An independent review committee consists of all of the following, none of whom are members of the Board:
- (a) 1 public representative;
  - (b) 2 members of the Investigative Committee.
- (2) A quorum of an independent review committee consists of the 3 persons appointed under subsection (1).
- (3) A decision of an independent review committee requires the majority vote of the quorum of the committee.

**Decision of independent review committee**

- 53** (1) After reviewing a complaint, any other material considered by the Registrar and the Registrar's decision, an independent review committee may do any of the following:
- (a) confirm the dismissal of some or all of the complaint;
  - (b) overturn the dismissal of some or all of the complaint and do 1 or both of the following:
    - (i) order an investigation of any aspects of the complaint that have not been dismissed,
    - (ii) refer the matter to be considered by an investigative panel under Section 59.
- (2) An independent review committee must render its decision in writing, with reasons, and provide a copy of the decision to all of the following within a reasonable time:
- (a) the Registrar;
  - (b) the complainant;
  - (c) the respondent.

**Decision of independent review committee final**

- 54** A decision of an independent review committee is final.

**Referral to Fitness to Practise Program**

- 55** (1) The Registrar or an investigative panel may, if it is in the public interest to do so, and with the consent of the member, refer a matter to the Fitness to Practise Program in accordance with these regulations in any of the following circumstances:
- (a) a complaint concerns a member's incapacity;
  - (b) the investigation of a complaint raises the question of a member's incapacity;
  - (c) a person raises questions about the possible incapacity of a member to the College in the

absence of a complaint;

- (d) a member self-reports incapacity to the College.
- (2) If a matter referred to the Fitness to Practise Program concerns a member who was previously in the Program, the Registrar and the Fitness to Practise Committee must be provided with all information in the possession of the College related to the previous matter.

#### **Interim agreement**

- 56 (1) On receipt of a referral of a matter to the Fitness to Practise Program, the Fitness to Practise Committee may enter into an interim agreement with the member who is the subject of the referral respecting conditions or restrictions on the member's practice or undertakings with regard to the member's practice.
- (2) An interim agreement is in effect pending the conclusion of an investigation or hearing with respect to the member or until the Fitness to Practise Committee approves a remedial agreement in accordance with Section 57.
- (3) An interim agreement may include any of the following:
- (a) the member's agreement to submit, at the member's expense, to any assessment for incapacity that the Fitness to Practise Committee considers appropriate;
  - (b) the member's agreement to reimburse the College for any assessment for incapacity expenses incurred by the College;
  - (c) the member's undertaking to refrain from practice until further agreement or approval from the Fitness to Practise Committee;
  - (d) the member's undertaking to complete, at the member's expense, any applicable course of treatment that is designed to address any issues respecting the member's capacity;
  - (e) the member's authorization for the Fitness to Practise Committee to receive reports on the assessments for incapacity or treatments referred to in clauses (a), (b) and (c) and for the Registrar to request reports from practitioners who treat the member;
  - (f) the member's agreement to accept restrictions or conditions on the member's practice;
  - (g) terms and conditions that the member must satisfy before returning to practice;
  - (h) any provisions to which the member and the Registrar agree.
- (4) If a member who enters into an interim agreement undertakes not to practise until the terms and conditions of the interim agreement have been satisfied, the Registrar
- (a) must remove the member's name from any applicable rosters;
  - (b) must notify the member's employers as identified in the records of the College; and
  - (c) may notify the licensing authority in any other jurisdiction in which the member is licensed, as shown in the records of the College.
- (5) Any terms, conditions or restrictions placed on a member's licence under an interim agreement must

be noted in the College's records, and the Registrar must notify the member's employers as identified in the records of the College.

### **Remedial agreement**

- 57 (1) A member who is subject to an interim agreement and seeks to lift the terms of the interim agreement may request a remedial agreement to govern the terms of a return to practice.
- (2) The Fitness to Practise Committee may enter into a remedial agreement with a member, if the Fitness to Practise Committee is satisfied of all of the following:
- (a) the member is incapacitated;
  - (b) it is in the public interest to do so;
  - (c) the agreement contains terms and conditions that can be reasonably expected to protect the public and avoid endangering the health or safety of clients.
- (3) A remedial agreement may contain any of the following:
- (a) the member's agreement to submit, at the member's expense, to any assessment for incapacity that the Fitness to Practise Committee considers appropriate;
  - (b) the member's agreement to reimburse the College for any assessment for incapacity expenses or other expenses incurred by the College;
  - (c) the member's undertaking to complete, at the member's expense, any applicable course of treatment designed to address any issues respecting the member's incapacity;
  - (d) the member's authorization for the Fitness to Practise Committee to receive any reports, assessments or evaluations that have been completed, are being undertaken or are undertaken in the future, whether at the request of the Fitness to Practise Committee or not, to the extent that they might reasonably be considered to relate to the member's incapacity;
  - (e) the member's consent for the Fitness to Practise Committee to communicate directly with practitioners who treat the member;
  - (f) restrictions on the member's licence or the member's undertaking to refrain from practising;
  - (g) terms and conditions that the member must satisfy before returning to practice;
  - (h) terms, conditions or restrictions on the member's licence that will apply after the member returns to practice;
  - (i) any provisions to which the member and the Fitness to Practise Committee agree.
- (4) Any terms, conditions or restrictions placed on a member's licence under a remedial agreement must be noted in the College's records, and the Registrar must notify the member's employers as identified in the records of the College.
- (5) If a member who enters into a remedial agreement undertakes not to practise until certain conditions of the remedial agreement have been satisfied, the Registrar
- (a) must remove the member's name from any applicable rosters;

- (b) must notify the member's employers, as identified in the records of the College; and
- (c) may notify the licensing authority in any other jurisdiction in which the member is licensed, as shown in the records of the College.

#### **Referrals from the Fitness to Practise Committee**

**58 (1)** The Fitness to Practise Committee must refer a matter referred under Section 55 back to the Registrar if any of the following occur:

- (a) the member fails to submit to any examination that the Fitness to Practise Committee directs to determine whether or not a member is incapacitated;
  - (b) the member withdraws consent to participate in the Fitness to Practise Program;
  - (c) at any time, the Fitness to Practise Committee considers that it is no longer in the public interest for the member to participate in the Fitness to Practise Program;
  - (d) the member and the Fitness to Practise Committee do not agree to the terms and conditions of an interim agreement or a remedial agreement;
  - (e) the Fitness to Practise Committee requests an amendment to an interim agreement or a remedial agreement and the member does not accept the amendment;
  - (f) the Fitness to Practise Committee determines that a member subject to an interim agreement or a remedial agreement
    - (i) fails to meet the terms and conditions of an interim or remedial agreement, or
    - (ii) poses an immediate threat to the health or safety of others;
  - (g) the Fitness to Practise Committee is not satisfied that the member is incapacitated.
- (2)** When the Fitness to Practise Committee refers a matter back to the Registrar under subsection (1), the Registrar may consider referring the matter to be considered by an investigative panel as a complaint.
- (3)** Once a member has fulfilled the terms and conditions of a remedial agreement, the Fitness to Practise Committee must refer the agreement back to the Registrar or, if the matter was referred by an investigative panel, back to the investigative panel, for final disposition.
- (4)** When a matter is referred by the Fitness to Practise Committee back to the Registrar or an investigative panel, the complete file, including any reports, assessments and evaluations in the possession of or obtained by the Fitness to Practise Committee, must accompany the referral.

#### **Investigation of complaint**

- 59 (1)** On deciding to refer a complaint to be considered by an investigative panel under clause 50(1)(e), the Registrar must send a copy of the complaint to the panel.
- (2)** An investigative panel may appoint an investigator, who may or may not be a member of the investigative panel, to conduct or to further an investigation of a complaint that is referred to the panel.
- (3)** When investigating a complaint, an investigator or investigative panel may do 1 or more of the

following:

- (a) request additional written or oral explanation from the complainant, the respondent or a third party;
  - (b) request an interview of the complainant, the respondent or a third party;
  - (c) informally resolve the complaint in the interests of the respondent, the complainant, the public and the College.
- (4) An investigator or investigative panel may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute any of the following:
- (a) professional misconduct;
  - (b) conduct unbecoming the profession;
  - (c) incompetence;
  - (d) incapacity.
- (5) A respondent may submit medical information and any information relevant to the complaint to an investigator or investigative panel.
- (6) An investigative panel may refer a matter at any time to the Fitness to Practise Program.

#### **Additional information to investigative panel**

- 60 (1) An investigative panel may at any time direct an investigator to conduct any investigation that the investigative panel considers necessary.
- (2) At any time before the final disposition of a complaint under Section 61 or 62, an investigative panel may receive additional information if the information is relevant to the matters before it.
- (3) If an investigative panel receives additional information under subsection (2), the respondent must be given an opportunity to respond to the matters raised in the information before the final disposition of the matter by the investigative panel.

#### **Dismissal of complaint by investigative panel**

- 61 (1) An investigative panel may dismiss a complaint and notify the complainant and the respondent of the dismissal, if the investigative panel decides that any of the following apply:
- (a) the subject matter of the complaint is outside the jurisdiction of the College;
  - (b) the complaint cannot be substantiated;
  - (c) the complaint is frivolous or vexatious;
  - (d) the complaint constitutes an abuse of process;
  - (e) the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel, a caution or both.

- (2) If on dismissing a complaint an investigative panel considers it useful, it may provide written advice relevant to the complaint that is of a non-disciplinary nature to any of the following persons:
  - (a) the complainant;
  - (b) the respondent;
  - (c) any person affected by the complaint.
- (3) An investigative panel must provide a copy of any written advice provided under clause (2)(a) or (c) to the respondent.

**Disposition of complaint by investigative panel**

- 62** (1) Unless it dismisses the complaint under subsection 61(1), an investigative panel must give the respondent a reasonable opportunity to appear before the panel before it disposes of a complaint, and may request or require other persons to appear before it.
- (2) An investigative panel may require a respondent to do 1 or more of the following:
    - (a) submit to a review of the respondent's practice by a qualified person or persons designated by the investigative panel, and authorize a copy of the review to be given to the investigative panel;
    - (b) complete a competence assessment or other assessment or examination the investigative panel directs to determine whether the respondent is competent to practise and authorize the assessment or examination report to be given to the investigative panel;
    - (c) produce any records or documents kept about the respondent's practice.
  - (3) Expenses incurred for a respondent to comply with a requirement under subsection (2) must initially be paid by the College, but may be awarded as costs against the respondent under Section 84.
  - (4) After providing a respondent an opportunity to appear before it under subsection (1), an investigative panel must do 1 or more of the following:
    - (a) dismiss the complaint;
    - (b) counsel the respondent;
    - (c) caution the respondent;
    - (d) refer the respondent to the Registrar for a competence assessment as determined by the Registrar, and require the respondent to pay for any costs arising from the assessment;
    - (e) if the investigative panel believes the matter involves an issue of incapacity and should be addressed through the Fitness to Practise Program, refer the matter to the Fitness to Practise Committee;
    - (f) informally resolve the complaint, including authorizing the respondent's resignation from the register and any relevant rosters, subject to the approval of the Board;
    - (g) if the investigative panel is satisfied the respondent has been practising while not holding a valid licence, direct the respondent to pay a fine in an amount determined by the investigative

- panel;
- (h) make a determination that there is sufficient evidence that, if proven,
    - (i) would constitute any of the following:
      - (A) professional misconduct,
      - (B) conduct unbecoming,
      - (C) incompetence,
      - (D) incapacity, and
    - (ii) would warrant imposing a licensing sanction.
- (5) On making a determination under clause (4)(h), an investigative panel must do 1 of the following:
- (a) with the respondent's consent, order 1 or both of the following:
    - (i) that the respondent receive a reprimand and that the reprimand be communicated to the respondent, the complainant and any other person as the investigative panel considers appropriate,
    - (ii) that conditions or restrictions, or both, be imposed on the respondent's licence;
  - (b) refer the matter or matters for a hearing by a professional conduct panel and, if the investigative panel considers it appropriate, direct the Registrar on behalf of the College to attempt to negotiate a settlement proposal in accordance with Section 64.

#### **Notification and disclosure of disposition**

- 63 (1) A licensing sanction imposed under clause 62(5)(a) must be published in accordance with subsection 81(2).
- (2) If an investigative panel refers a matter for a hearing by a professional conduct panel under clause 62(5)(b), the Registrar must advise the complainant of the referral and may do 1 or more of the following:
- (a) disclose to the public that a matter has been referred for a hearing;
  - (b) advise others of the referral for a hearing.

#### **Settlement Proposals**

##### **Preparing and tendering settlement proposals**

- 64 (1) A settlement proposal may be tendered in writing by the Registrar or the respondent at any time before a hearing begins.
- (2) A settlement proposal must include all of the following:
- (a) sufficient facts to provide context for the admissions of the respondent and agreed disposition;
  - (b) an admission or admissions by the respondent to 1 or more of the allegations set out in the



notice of hearing;

- (c) the respondent's consent to a specified disposition, conditional on the acceptance of the settlement proposal by the investigative panel and the professional conduct panel appointed in the matter;
  - (d) an agreement on costs.
- (3) A settlement proposal may include any disposition that could be ordered by a professional conduct panel under the Act or these regulations.
- (4) If both parties agree with a settlement proposal tendered under subsection (1), the Board must refer the settlement proposal to the investigative panel appointed in the matter for consideration, in accordance with Section 65.
- (5) The parties may agree to use a mediator to prepare a settlement proposal, and the costs for the mediator must be divided equally between the College and the respondent, unless the parties agree to a different division of the costs.
- (6) If the parties cannot agree on a settlement proposal, the matter must be referred for a hearing to the professional conduct panel appointed to hear the matter.

#### **Investigative panel actions when settlement proposal referred**

- 65 (1) An investigative panel may recommend acceptance of a settlement proposal if it is satisfied that all of the following criteria are met:
- (a) the public is protected;
  - (b) if the respondent is permitted to continue in practice, the conduct or its causes can be, or have been successfully remedied or treated, and the respondent is likely to successfully pursue any remediation or treatment required;
  - (c) settlement is in the best interests of the public and the relevant profession.
- (2) If an investigative panel recommends acceptance of a settlement proposal, the investigative panel must refer the settlement proposal to the professional conduct panel appointed in the matter for consideration in accordance with Section 66.
- (3) If an investigative panel does not recommend acceptance of a settlement proposal, the investigative panel must do 1 of the following:
- (a) recommend changes to the settlement proposal that
    - (i) if agreed upon by the parties, will result in acceptance by the investigative panel, or
    - (ii) if not agreed upon by the parties, will result in rejection by the investigative panel;
  - (b) reject the settlement proposal and refer the matter considered by the investigative panel to the professional conduct panel appointed in the matter for a hearing.

#### **Professional conduct panel actions when settlement proposal referred**

- 66 (1) A professional conduct panel must consider a settlement proposal that is referred to it under subsection 65(2), and may approve the settlement proposal if satisfied that the criteria in subsection

65(1) have been met.

- (2) If a professional conduct panel accepts a settlement proposal, the settlement proposal forms part of the order of the professional conduct panel disposing of the matter and, except as provided in subsection 67(3) for a breach of the settlement proposal, there is no hearing.
- (3) If a professional conduct panel does not accept a settlement proposal, it must do 1 of the following:
  - (a) suggest amendments to the settlement proposal and return it to the parties for review;
  - (b) reject the settlement proposal, in which case the matter is referred to another professional conduct panel for a hearing.
- (4) If both parties do not agree with any amendments to a settlement proposal made under clause (3)(a), the settlement proposal is deemed to be rejected and the matter must be referred to another professional conduct panel for a hearing.
- (5) If both parties agree with any amendments to a settlement proposal made under clause (3)(a), the settlement proposal must be sent back to the professional conduct panel, which must do 1 of the following:
  - (a) accept the settlement proposal;
  - (b) reject the settlement proposal and refer the matter to another professional conduct panel for a hearing.
- (6) A person who sits on the professional conduct panel that reviews a rejected settlement proposal must not sit on the professional conduct panel that conducts a hearing related to the same complaint.

#### **Settlement proposals and hearings**

- 67 (1) If a settlement proposal is rejected by a professional conduct panel, a hearing must proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until after the professional conduct panel has determined whether professional misconduct, conduct unbecoming, incompetence or incapacity has been proven.
- (2) Before deciding whether to award costs in a hearing, a professional conduct panel may be given a copy of any settlement proposals exchanged between the parties.
  - (3) Any alleged or admitted breach by a respondent of an undertaking given in an accepted settlement proposal or a condition of an accepted settlement proposal must be referred to an investigative panel and may form the subject of a new hearing.

#### **Consent revocation**

- 68 (1) A respondent who does not contest the allegations or admits to some or all of the allegations set out in a complaint or a notice of hearing may, with the consent of the Registrar, submit a proposed consent revocation agreement to the professional conduct panel appointed in the matter.
- (2) A proposed consent revocation agreement must include allegations that, if proven, would result in a revocation of the respondent's registration and licence.
  - (3) A professional conduct panel may accept or refuse a proposed consent revocation agreement submitted under subsection (1), and must provide a written decision with reasons.

- (4) A decision to accept a consent revocation agreement must in all respects be treated in the same manner as a revocation ordered by a professional conduct panel following a hearing, including disclosure and publication in accordance with Section 81.

**Notice of hearing**

69 A notice of hearing must state

- (a) the details of the charges against the respondent; and
- (b) that the respondent may be represented by legal counsel, a union representative or another representative.

**Amendment of notice of hearing**

70 (1) At any time before or during a hearing, a professional conduct panel may, on its own motion or on the motion of a party to the hearing, amend or alter the notice of hearing for any of the following reasons:

- (a) to correct an alleged defect in substance or form;
- (b) to make the notice conform to the evidence, if there appears to be a difference between the evidence and the notice or if the evidence discloses any of the following that is not stated in the notice:
  - (i) potential professional misconduct,
  - (ii) conduct unbecoming the profession,
  - (iii) incapacity,
  - (iv) incompetence.
- (2) A respondent must be given an opportunity to prepare an answer to an amendment or alteration to a notice of hearing made by a professional conduct panel.
- (3) After receiving a respondent's answer under subsection (2), the professional conduct panel may decide that an amendment or alteration to the notice of hearing should not be made and, if considered appropriate, may refer any new allegations to the Registrar for processing as a complaint.

**Public notice of hearing**

71 Subject to any publication ban ordered by a professional conduct panel, the Registrar must give public notice of any scheduled hearings, through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the name of the respondent;
- (b) the date, time and location of the hearing;
- (c) reference to any application being made for an order under Section 72 to exclude the public.

**Attendance at hearing**

72 (1) Except as provided in subsection (2) or (3), a hearing is open to the public.

- (2) At the request of a party, a professional conduct panel may order that the public, in whole or in part,

be excluded from a hearing or any part of it if the professional conduct panel is satisfied that any of the following apply:

- (a) personal, medical, financial or other matters that may be disclosed at the hearing are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of the public or any person affected outweighs the desirability of adhering to the principle that hearings should be open to the public;
  - (b) the safety of any person may be jeopardized by permitting public attendance.
- (3) A professional conduct panel may make an order that the public be excluded from a part of a hearing that deals with a request for an order to exclude the public in whole or in part under subsection (2).
  - (4) A professional conduct panel may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a hearing or in any part of a hearing dealing with an order under subsection (2) or (3).
  - (5) Subject to any order made under this Section, a professional conduct panel must state at a hearing its reasons for any order made under this Section.
  - (6) Despite any decision to exclude the public under this Section, a complainant may attend a hearing unless the professional conduct panel directs otherwise.

#### **Hearing procedures**

- 73 (1) A complainant other than the Registrar cannot participate as a party at a hearing.
- (2) A professional conduct panel may determine any additional rules of procedure for hearings that are not covered by the Act or these regulations.
  - (3) A professional conduct panel may exclude a complainant or a witness other than the respondent from a hearing until the complainant or witness is required to give evidence.
  - (4) Witnesses at a hearing must testify under oath or affirmation.
  - (5) An oath or affirmation taken at a hearing may be administered by any member of a professional conduct panel or other person in attendance authorized by law to administer oaths or affirmations.
  - (6) A professional conduct panel may require a respondent to do 1 or more of the following during a hearing:
    - (a) if the professional conduct panel has reasonable and probable grounds to believe that the respondent has an issue of incapacity, submit to physical or mental examinations by a qualified person or persons designated by the panel and authorize examination reports to be given to the panel;
    - (b) submit to a review or audit of the respondent's practice by a qualified person or persons designated by the panel and authorize a copy of the review to be given to the panel;
    - (c) submit to a competence assessment or other assessment or examination the panel directs to determine whether the respondent is competent to practise and authorize the assessment report or examination to be given to the panel;
    - (d) produce any records kept about the respondent's practice as the panel considers appropriate.

- (7) If a respondent fails to comply with a requirement under subsection (6), the professional conduct panel may order that the respondent be suspended until the respondent complies.
- (8) Expenses incurred for a respondent to comply with a requirement under subsection (6) must be initially paid by the College, but may be awarded as costs against a respondent under Section 84.

**Respondent fails to attend hearing**

74 After receiving proof of service of the notice of hearing in accordance with Section 46 of the Act, a professional conduct panel may proceed with a hearing in a respondent's absence and take any action authorized under the Act and these regulations without further notice to the respondent.

**Subpoenaed witness fees**

75 Witnesses who are present under subpoena at a hearing are entitled to the same allowances as witnesses attending a trial of an action in the Supreme Court of Nova Scotia.

**Recording evidence at hearing**

- 76 (1) All evidence presented at a hearing must be recorded by a person authorized by the College.
- (2) Evidence may be presented at a hearing in any manner that the professional conduct panel conducting the hearing considers appropriate, and the panel is not bound by the rules of law respecting evidence applicable to judicial proceedings.

**Preserving evidence**

77 Evidence obtained by a professional conduct panel and information obtained by an investigative panel or an investigator for a complaint that has not been dismissed by an investigative panel must be preserved at least 5 years from the date the evidence is presented or the information is obtained.

**Disposition by professional conduct panel**

78 If a professional conduct panel finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of a respondent, the professional conduct panel may do 1 or more of the following and must include orders for it in the panel's disposition of the matter:

- (a) revoke the respondent's registration or licence and direct the Registrar to remove the respondent's name from the rosters where the name is entered;
- (b) for a respondent who held a temporary licence or a temporary licence with conditions or restrictions at the time of the incident giving rise to the complaint, revoke the respondent's ability to obtain registration, or require the respondent to comply with any conditions or restrictions imposed by the panel if registration is granted;
- (c) authorize the respondent to resign from the Register and remove the respondent's name from the rosters where the name is entered;
- (d) suspend the respondent's licence for a specified period of time and direct the Registrar to remove the respondent's name from the rosters where the name is entered;
- (e) suspend the respondent's ability to obtain a licence for a specified period of time;
- (f) suspend the respondent's licence pending the satisfaction and completion of any conditions the panel orders;
- (g) impose any restrictions or conditions, or both, on the respondent's licence for a specified period of time;

- (h) reprimand the respondent and direct that the reprimand be recorded in the records of the College;
- (i) direct the respondent to pass a particular course of study or satisfy the professional conduct panel or any other panel established under the Act of the respondent's general competence to practise, or competence in a particular discipline;
- (j) refer the respondent for a competence assessment as determined by the Registrar, and require the respondent to pay any costs associated with the assessment and any bridging education required following the assessment;
- (k) direct the respondent to pay a fine in an amount determined by the panel for findings that involve any of the following:
  - (i) practising without a licence,
  - (ii) professional misconduct or conduct unbecoming the profession;
- (l) publish or disclose its findings in accordance with the Act and these regulations.

**Written decision of professional conduct panel**

**79** A professional conduct panel must prepare a written report or reports of each of its decisions that include the reasons for the decision on the allegations in the notice of hearing and the reasons for the disposition ordered under Section 78, and must provide copies of its decision or information from its decision in accordance with Sections 81 and 82.

**Disclosing professional conduct panel's decision to dismiss complaint**

**80 (1)** Except as prohibited by any publication bans, a professional conduct panel may disclose or publish a decision or part of a decision that dismisses a complaint, in the manner determined by the professional conduct panel.

**(2)** A professional conduct panel must provide a copy of its full decision to the Registrar.

**Disclosing and publishing licensing sanctions**

**81 (1)** Except as excluded under Section 83, for the purpose of Section 53 of the Act, all of the following is prescribed as information to be published or disclosed in the manner specified, subject to any existing publication bans, after a licensing sanction is issued by a professional conduct panel:

- (a) a copy of the full decision to the respondent and the complainant;
- (b) the full decision published in all of the following:
  - (i) the College website,
  - (ii) the professional conduct digest retained by the College and available to the public,
  - (iii) any official publication as determined by the professional conduct panel;
- (c) a copy of the full decision, a summary of the decision or a notice of the decision to any of the following as the Registrar considers necessary:
  - (i) other regulatory bodies,

- (ii) any past, present, or intended employer of the respondent,
  - (iii) any identified individuals,
  - (iv) the public, through the newspaper or other media as determined by the Registrar.
- (2) Except as excluded under Section 83, for the purpose of Section 53 of the Act, all of the following is prescribed as information to be published or disclosed by the Registrar in the manner specified, subject to any existing publication bans, after a licensing sanction is issued by an investigative panel or through an accepted settlement proposal:
- (a) a copy of the full decision to the respondent;
  - (b) the full decision or part of the decision, as determined by the Registrar, to the complainant;
  - (c) the full decision or a summary of the decision published in all of the following:
    - (i) the College website,
    - (ii) the professional conduct digest retained by the College and available to the public,
    - (iii) any official publication as determined by the investigative panel or, for a sanction issued through a settlement, the professional conduct panel;
  - (d) notification of the licensing sanction and a copy of the summary of the decision to any of the following as the Registrar considers necessary, along with any other information requested:
    - (i) other regulatory bodies,
    - (ii) any past, present, or intended employer of the respondent,
    - (iii) any other entities or individuals specified by the Registrar;
  - (e) any of the following provided to any person as the Registrar considers appropriate:
    - (i) the decision,
    - (ii) a summary of the decision,
    - (iii) parts of the decision,
    - (iv) notice of the decision.

**Contents of summary of decision**

**82** Subject to any publication bans, a summary of a decision provided under Section 81 must contain all of the following information:

- (a) the member's name, city or town of residence and registration number;
- (b) the provision of the Act or the regulations under which the licensing sanction is issued;
- (c) the date of the decision;

- (d) sufficient facts to support the admissions and the disposition;
- (e) the admissions of the respondent;
- (f) an acknowledgement that the admissions constitute a disciplinary matter;
- (g) the disposition ordered by the investigative panel or the professional conduct panel;
- (h) the reasons for the decision;
- (i) any information the College considers necessary to meet the objects of the College.

**Publication if finding of incapacity**

**83** If a complaint is resolved without a hearing and the allegations have been found to constitute incapacity, the specific nature of the incapacity must not be included in a summary of the decision provided under Section 81.

**Costs for investigation and hearing**

**84 (1)** In this Section, “costs” includes all of the following:

- (a) expenses incurred by the College in the investigation of a complaint;
  - (b) expenses incurred by the College for the activities of an investigative panel and a professional conduct panel;
  - (c) expenses incurred for participation in any competence assessment arising from a decision of an investigative panel or a professional conduct panel;
  - (d) expenses incurred under subsection 49(3), 62(2) or 73(6);
  - (e) the College’s solicitor and client costs, including disbursements and HST, relating to the investigation and hearing of a complaint, including those of College counsel and counsel for a professional conduct panel;
  - (f) fees for retaining a court reporter and preparing transcripts of the proceedings;
  - (g) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a hearing.
- (2) If a professional conduct panel finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of the respondent, it may order that the respondent pay costs in whole or in part.
- (3) If a professional conduct panel considers that a hearing was not necessary, it may order the College to pay some or all of the respondent’s legal costs.
- (4) Except when awarded costs under this Section, a respondent is responsible for all expenses incurred in their defence.
- (5) The Registrar may suspend the licence of any respondent who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.



## Reinstatement of Registration or Licence

### Applications for reinstatement

- 85 (1) An application for reinstatement of registration or a licence following revocation by a professional conduct panel must be sent in writing to the Registrar together with the applicable fee.
- (2) An application for reinstatement of registration or a licence must include any information the Reinstatement Committee requires to assist it in determining whether the objects of the College will be met if reinstatement is granted.

### Investigation concerning reinstatement application

- 86 (1) Upon receiving a reinstatement application following revocation of registration or a licence, the Registrar may request that an investigation be conducted to gather relevant and appropriate information concerning the application.
- (2) A person who conducts an investigation under subsection (1) must give a written report to the Registrar and the applicant that contains all material relevant to the application, including the decision of the professional conduct panel that revoked the applicant's registration or licence, and any relevant information gathered during the investigation.
- (3) The Registrar must provide the Reinstatement Committee with the reinstatement application together with the report and materials required under subsection (2).

### Reinstatement application proceedings

- 87 (1) The Reinstatement Committee must set a date for a proceeding to review a reinstatement application and must advise the applicant of the date.
- (2) The parties to a reinstatement application proceeding are
- (a) the College, represented by the Registrar or a person designated by the Registrar; and
  - (b) the applicant for reinstatement.
- (3) Evidence before the Reinstatement Committee must be taken under oath or affirmation and must be recorded, and is subject to cross-examination.

### Attendance at reinstatement application proceeding

- 88 (1) Except as provided in subsection (2) or (3), a reinstatement application proceeding is open to the public.
- (2) At the request of a party, the Reinstatement Committee may order that the public, in whole or in part, be excluded from a reinstatement application proceeding or any part of it if the Committee is satisfied that any of the following apply:
- (a) personal, medical, financial or other matters that may be disclosed at the proceeding are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of the public or any person affected outweighs the desirability of adhering to the principle that proceedings should be open to the public;
  - (b) the safety of any person may be jeopardized by permitting public attendance.
- (3) The Reinstatement Committee may make an order that the public be excluded from a part of a reinstatement application proceeding that deals with a request for an order to exclude the public in

whole or in part under subsection (2).

- (4) The Reinstatement Committee may make any orders that it considers necessary including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a reinstatement application proceeding or in any part of a reinstatement application proceeding dealing with an order under subsection (2) or (3).
- (5) Subject to any order made under this Section, the Reinstatement Committee must state at a reinstatement application proceeding its reasons for any order made under this Section.

#### **Public notice of application for reinstatement**

**89** Subject to any publication bans, the Registrar must give public notice of any scheduled reinstatement application proceedings through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of a reinstatement application proceeding;
- (b) reference to any application being made for an order under Section 88.

#### **Decision of Reinstatement Committee**

- 90** (1) After considering the evidence and the representations from the parties, the Reinstatement Committee must decide to accept or reject a reinstatement application and communicate its decision, together with reasons, in writing to the applicant and to the Registrar.
- (2) If the Reinstatement Committee accepts a reinstatement application, the Committee may impose any conditions and restrictions it considers appropriate relating to the reinstatement of the applicant, and the applicant must satisfy all criteria required for a licence.
  - (3) Except as provided in subsection (4), the Reinstatement Committee's decision concerning a reinstatement application is final.
  - (4) An applicant may resubmit an application for reinstatement no sooner than
    - (a) 1 year after the date of the Reinstatement Committee's initial decision to reject their application; or
    - (b) a date that is after the period in clause (a), as determined by the Reinstatement Committee.

#### **Costs of reinstatement application**

**91** (1) For purposes of this Section, "costs" includes all of the following:

- (a) expenses incurred by the College in the investigation of a reinstatement application;
- (b) expenses incurred by the College for the activities of the Reinstatement Committee;
- (c) the College's solicitor and client costs, including disbursements and HST, relating to a reinstatement application, including those of College counsel and counsel for the Reinstatement Committee;
- (d) fees for retaining a court reporter and preparing transcripts of the proceedings;
- (e) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a reinstatement application proceeding.

- (2) An applicant for reinstatement is responsible for all expenses they incur in the reinstatement application process.
- (3) Whether the application is accepted or rejected, the Reinstatement Committee may recover costs from the applicant.
- (4) The Registrar may suspend the licence of any person whose licence is being reinstated and who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

**Reinstatement of registration—conditions and restrictions continue on licence**

**92** On restoration of a member's name to the register or a roster under subsection 27(2) of the Act, any conditions or restrictions previously imposed on the member's licence that have not expired remain in effect on any new licence issued to the member.

**N.S. Reg. 121/2019**

Made: August 15, 2019

Filed: August 16, 2019

Prescribed Petroleum Products Prices

Order dated August 15, 2019  
made by the Nova Scotia Utility and Review Board  
pursuant to Section 14 of the *Petroleum Products Pricing Act*  
and Sections 16 to 19 of the *Petroleum Products Pricing Regulations*

**Order**

**M09360**

**In the matter of the *Petroleum Products Pricing Act***

- and -

**In the matter of prescribing prices for petroleum products  
pursuant to Section 14 of the *Petroleum Products Pricing Act* and  
Sections 16 to 19 of the *Petroleum Products Pricing Regulations***

**Before:** Jennifer L. Nicholson, CPA, CA, Member

**Whereas** the purpose of the *Petroleum Products Pricing Regulations* is to ensure just and reasonable prices for specified petroleum products taking into consideration the objectives of preserving the availability of such products in rural areas, stabilizing prices of such products and minimizing the variances in prices of such products across the Province;

**And whereas** the Nova Scotia Utility and Review Board ("Board") considered the manner in which it would proceed to set petroleum product prices in its decision, 2006 NSUARB 108, issued on October 16, 2006;

**And whereas** the Board revised the wholesale margin effective January 4, 2013, in its decision, 2012 NSUARB 213, issued on December 12, 2012;

**And whereas** the Board revised the retail margin and the transportation allowance effective October 28, 2016, in its decision, 2016 NSUARB 168, issued on September 26, 2016;