

## **PART 12 – PUBLIC PROTECTION**

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### **DIVISION 1 –ADMINISTRATIVE MATTERS AND COMPLAINTS**

#### **Registrar's authority**

- 12.01** (1) The registrar is authorized to dispose of an administrative matter under section 109 of the Act by making disciplinary orders described in section 270(1)(a) or (b) and (2) and section 271(1)(a) of the Act.
- (2) The registrar must not dispose of an administrative matter under section 109(1)(b), (c) or (d) of the Act, unless the registrar first gives the respondent notice and an opportunity to be heard.

#### **Maximum amount of monetary penalty for administrative matter**

- 12.02** The registrar may make a disciplinary order described in section 271(1)(a) of the Act that does not exceed \$25,000.

#### **Competence assessments**

- 12.03** In addition to a clinical evaluation under section 132(2)(a) of the Act, a competence assessment may include one or both of the following:
- (a) inspection of records respecting the respondent's practice, including records containing the personal information or other types of confidential information of patients;
  - (b) interviewing the respondent and regulated health professionals or other people who work with the respondent.

#### **Investigation reports**

- 12.04** Before the investigation committee assesses a complaint under section 134(2) of the Act, the registrar
- (a) must provide all final reports respecting the investigation of the complaint to the respondent,
  - (b) may provide all or some of the reports, in whole or in part, to the complainant, if any, and
  - (c) must provide to the investigation committee any submissions received from the respondent or complainant in response to the reports.

#### **Disposition with respondent's consent**

- 12.05** (1) The registrar must obtain the respondent's consent in writing before making an order under section 158 of the Act.
- (2) If the registrar makes an order under section 158 of the Act, the registrar must

- (a) deliver to the respondent and to the complainant, if any, a copy of the order and the reasons for the order, and
- (b) provide the investigation committee with a summary of the regulatory complaint, all information received or obtained with respect to the complaint, and a copy of the order.

### **Summary dismissal orders**

- 12.06** (1) If the registrar makes a summary dismissal order under section 258 of the Act, the registrar must
- (a) deliver to the respondent and to the complainant, if any, a copy of the order and the reasons for the order, and
  - (b) provide the investigation committee with a summary of the regulatory complaint that was the subject of the summary dismissal order, all information received or obtained with respect to the complaint, and a copy of the order.
- (2) Before making a summary dismissal order under section 258(2)(b) of the Act, the registrar must seek to obtain the information or records necessary to fairly investigate the regulatory complaint from other sources.

### **Investigation expenses**

- 12.07** Subject to section 273 of the Act, an order for investigation expenses must be determined in accordance with Schedule “X”.

### **Discipline hearing**

- 12.08** The Registrar is responsible for the college’s participation in a discipline hearing under Part 3, Division 16 of the Act, including retaining and instructing legal counsel to represent the college at the hearing.

### **Enforcement of disciplinary orders**

- 12.09** The registrar is responsible for establishing a process for the enforcement of disciplinary orders made under the Act, including an order made against a respondent by a discipline panel in the course of a discipline hearing.

## **DIVISION 2 – MANAGEMENT OF A SUSPENDED LICENSEE’S PRACTICE**

### **Carrying on of suspended licensee’s practice**

- 12.10** (1) A licensee whose licence is suspended may, subject to the terms of any order then applying against the licensee, arrange for another licensee from the same designated health profession to carry on the licensee’s practice of that designated health profession during the period of suspension.
- (2) A licensee must be approved by the registrar to carry on a suspended licensee’s practice under subsection (1).

- (3) A licensee approved by the registrar under subsection (2) may only carry on the practice of a suspended licensee if the suspended licensee is in compliance with section 12.11.

### **Duties of suspended licensee**

- 12.11** (1) A licensee who is suspended must immediately inform the following persons of the order for suspension, the duration of the suspension, any measures being taken to ensure continuity of care for patients, and any other matters specified in the order, as applicable:
- (a) if and to the extent required by the terms of the suspension, each patient to whom the suspended licensee is actively providing service or with whom the suspended licensee maintains an ongoing professional relationship;
  - (b) owners or administrators of each health care facility at which the suspended licensee provides health services;
  - (c) all regulated health professionals, administrative staff or other persons working or coordinating with the suspended licensee in providing health services to patients;
  - (d) any other persons specified in the order for suspension.
- (2) During a period of suspension, a suspended licensee
- (a) may not benefit or profit financially or otherwise, directly or indirectly, from the practice of any designated health profession,
  - (b) must, in relation to the suspended licensee's patient records,
    - (i) arrange for a transfer of the records either,
      - (A) as approved by the registrar, or
      - (B) as ordered under section 82 of the Act,
    - (ii) provide for a licensee approved by the registrar under section 12.10(2) to have access to the records for the purpose of carrying on the suspended licensee's practice, or
    - (iii) notify the registrar of the location of the records, and the process by which patients may access their records.

## **DIVISION 3 – RECONSIDERATIONS AND REVIEWS**

### **Definition**

- 12.12** (1) In this Division, “**decision maker**” means
- (a) in respect of an application for reconsideration of a continuing practice order or a revocation order under section 148 of the Act, the capacity officer who made that order,
  - (b) in respect of an application for reconsideration of a summary protection order, the investigation committee,

- (c) in respect of an application for reconsideration of a notice of intent to take action or a termination order under section 240(5) of the Act, either the registrar or the investigation committee as specified in paragraph (a) of the definition of “decision maker” in section 234 of the Act, and
- (d) in respect of an application for review of a disciplinary order made under section 109(b) or (d) of the Act, the investigation committee.

### **Reconsideration of continuing practice, revocation and summary protection orders**

- 12.13** (1) Subject to section 381 of the Act, a respondent who wants a decision maker to reconsider a continuing practice order, a revocation order or a summary protection order must submit to the registrar a completed application for reconsideration in the form and manner ordered by the registrar.
- (2) The hearing under section 382(6)(a) of the Act to reconsider a continuing practice order, a revocation order or a summary protection order must be conducted by written submissions only, unless the decision maker determines there are exceptional circumstances requiring a different form of hearing.

### **Reconsideration of notice of intent to take action or termination order**

- 12.14** (1) Subject to section 381 of the Act, a person referred to in section 240(1)(a) of the Act who wants a decision maker to reconsider a notice of intent to take action or a termination order must submit to the registrar a completed application for reconsideration in the form and manner ordered by the registrar.
- (2) The hearing under section 382(6)(a) of the Act to reconsider a notice of intent to take action or a termination order must be conducted by written submissions only, unless the decision maker determines there are exceptional circumstances requiring a different form of hearing.

### **Review of disciplinary order**

- 12.15** (1) Subject to section 381 of the Act, a respondent who wants the decision maker to review a disciplinary order made under section 109(1)(b), (c) or (d) of the Act must submit to the registrar a completed application for review in the form and manner ordered by the registrar.
- (2) The hearing under section 382(6)(a) of the Act to review a disciplinary order made under section 109(1)(b), (c) or (d) of the Act must be conducted by written submissions only, unless the investigation committee determines there are exceptional circumstances requiring a different form of hearing.

### **Processing reconsideration and review applications**

- 12.16** (1) On receipt of an application for reconsideration or review under section 12.13, 12.14 or 12.15,
- (a) the registrar must, as soon as reasonably practical,
    - (i) confirm receipt of the application with the person submitting it, and

- (ii) unless the registrar is the decision maker for the application, forward the application to the decision maker.
- (b) the decision maker must direct the registrar to deliver a notice of hearing to the person who submitted the application.
- (2) A notice of hearing delivered under subsection (1)(b) must
  - (a) describe the matter that is to be the subject of the hearing,
  - (b) specify timelines for providing written submissions, or if the reconsideration or review will proceed by a different form of hearing, such information as is necessary respecting the date, time, and if applicable, location for that hearing, and
  - (c) inform the person who submitted the application of the decision maker's authority to act under section 12.17(5).

### **Reconsideration and review hearings**

- 12.17** (1) Except as otherwise required by these bylaws or the Act, the decision maker
- (a) has the power to control its process for a hearing under section 382(6)(a) of the Act, and
  - (b) without limiting paragraph (a), may do one or both of the following:
    - (i) adjourn the hearing;
    - (ii) make orders to facilitate the timely, just and orderly conduct of the hearing.
- (2) The decision maker may act under subsection (1) on its own initiative or on the request of a party to a hearing.
- (3) If a hearing under section 382(6)(a) of the Act proceeds in person or by electronic means,
- (a) the person submitting the application for reconsideration or review and the college may appear as parties and with legal counsel, and
  - (b) the decision maker may allow for the person submitting the application for reconsideration and the college to call evidence and for witnesses to provide testimony.
- (4) If the decision maker allows for witnesses to provide testimony under subsection (3)(b),
- (a) that testimony must be taken on oath, or using a form of affirmation that confirms a witness's commitment to speak the truth and is culturally appropriate, and
  - (b) the person who submitted the application for reconsideration or review and the college have the right to cross-examine the witnesses.
- (5) If the person who submitted the application for reconsideration or review does not attend a hearing under section 382(6)(a) of the Act conducted in person or by

electronic means, or fails to deliver written submissions by a specified deadline, the decision maker may, subject to section 382 of the Act,

- (a) proceed with the hearing in absence of the person who submitted the application for reconsideration or review on proof the registrar gave the person notice in accordance with section 12.16, and
- (b) without further notice to the person, take any action that it is authorized to take under the Act.

### **Administrative and judicial reviews**

**12.18** The registrar is responsible for:

- (a) determining whether to apply to the director of discipline for a review of an order made by a discipline panel,
- (b) responding to an application from a respondent or complainant for a review of an order made by a discipline panel,
- (c) determining whether to make an application for judicial review following a review by the director of discipline, or any related proceeding, and
- (d) responding to an application for judicial review.

## **DIVISION 4 – GENERAL MONITORING OF LICENSEES**

### **Monitoring program**

- 12.19** (1) The registrar must establish and implement a program to monitor, generally, for contraventions by licensees of the Act, the Regulations or these bylaws.
- (2) The program established and implemented by the registrar under subsection (1) must include periodic monitoring of online platforms, social media, websites and other public media or resources to identify potential contraventions by licensees.
- (3) If a potential contravention is identified through monitoring under section (2), the registrar
- (a) may request records or information from the licensee or licensees associated with the potential contravention, and
  - (b) must review the information about the potential contravention obtained from the monitoring and any request made under paragraph (a) and decide whether to
    - (i) refer the licensee or licensees associated with the potential contravention for a quality assurance assessment under section 99 of the Act,
    - (ii) assess the potential contravention as an administrative matter under section 108 of the Act, or
    - (iii) name the licensee or licensees associated with the potential contravention in a regulatory complaint under section 119 of the Act.

- (4) The program established and implemented by the registrar under subsection (1), may include, without limitation,
  - (a) developing strategies, methods and technologies to be used in monitoring under subsection (2),
  - (b) establishing and developing criteria for the registrar to use in deciding how to process a potential contravention under subsection (3), and
  - (c) collaborating with other colleges, government agencies, public bodies, professional associations, and other organizations to share information and coordinate efforts to monitor licensees under subsection (2).

## **DIVISION 5 – UNAUTHORIZED PRACTICE**

### **Definitions**

- 12.20** (1) In this section, “**title**” means a title that may be used exclusively by a licensee of a designated health profession in accordance with Division 3 of Part 8.
- (2) In this Division, “**unauthorized practice**” includes
- (a) conduct that contravenes section 29 of the Act in respect of a designated health profession, and
  - (b) subject to sections 31 to 33 of the Act, use of a title that contravenes section 30 of the Act.

### **Unauthorized practice monitoring program**

- 12.21** (1) The registrar must establish and administer a program to monitor for unauthorized practice of the designated health professions.
- (2) The program established under subsection (1)
- (a) must include periodic monitoring of online platforms, social media, websites, and other public media or resources to identify potential unauthorized practice, and
  - (b) may include, without limitation,
    - (i) developing strategies, methods and technologies to be used in monitoring under subsection (2), and
    - (ii) collaborating with other colleges, government agencies, public bodies, professional associations, and other organizations to share information and coordinate efforts monitor for unauthorized practice.

### **Reports of unauthorized practice**

- 12.22** (1) In addition to establishing and implementing a program to monitor for unauthorized practice, the registrar must receive all reports to the college of potential unauthorized practice or that a person who is not a regulated health practitioner has contravened, is contravening or is about to contravene the Act or the regulations.

- (2) The college must not disclose the identity of individuals who make a report under subsection (1) unless disclosure is necessary for the college to exercise a power or perform a duty under the Act or these bylaws.

**Preliminary report and other information to the investigation committee**

- 12.23** (1) If the registrar has reasonable grounds to believe a person who is not a regulated health practitioner has engaged, is engaging or is about to engage in unauthorized practice, or has contravened, is contravening or is about to contravene the Act or the regulations, the registrar must, as soon as reasonably practicable, provide a preliminary report to the investigation committee together with copies of all information and records received or obtained with respect to the report.
- (2) The registrar may, at any time, provide the investigation committee with an assessment of any matter in respect of potential unauthorized practice or the possible contravention of the Act or the regulations by a person who is not a regulated practitioner, and make recommendations with respect to:
- (a) further investigation under sections 373(a) and 374 of the Act,
  - (b) written notice to another regulator under section 373(b) of the Act, or
  - (c) a disposition under sections 376 or 377 of the Act.