Index

ADJUDICATION	ADJUDICATION—Cont'd
Adequate facilities, 6:27	Evidence—Cont'd
Adjournments, 6:25	testimony from previous proceed-
Charter rights	ing, 6:40
"charged with an offence," 6:23	Hearing panel
"true penal consequences," 6:26	adjournment, 6:49
Costs against governing body, 6:65	bias
Counsel, right to, 6:16	conflict of interest, 6:6
Counsel, role of	counsel
see Lawyer as counsel	assisting panel in delibera-
Delegation of functions, 6:1	tions, 6:10
Divided functions, 6:14	partisan conduct by, 6:9
Evidence	financial interest of governing body, 6:5
accomplices, 6:36	institutional independence,
character evidence, 6:35	6:12
compelling the member to testify, 6:26	intervention questioning, 6:7
complaint anonymity, protecting,	overlapping functions, 6:11
6:39	prejudgment of issues, 6:8
complaint letters, 6:30	standard of proof required to
cross-examination	show, 6:4
investigating committee, of,	composition of, 6:3
6:32	constitutionality of enabling
previous inconsistent	legislation, ruling on, 6:13
testimony, 6:41	decision, 6:48
hearing	Hearings, public access to
reason for deision, 6:48	notice of hearings, 6:19
hearing evidence in absence of	publication ban, 6:22
member, 6:37	right of attendance, 6:20
hearing penalty submissions	security measures, 6:21
before determining guilt,	Hearing transcript
6:44	admissibility in subsequent civil
hearsay, 6:29	proceeding, 6:50
mental capacity, 6:36.50	Malicious prosecution action, 6:64
privileged communications, disclosure of, 6:38	Oral hearing, right to, 6:17
•	Penalties, Discharge of upon bank-
similar fact evidence, 6:34	ruptcy, 6:63.50

ADJUDICATION—Cont'd	APPEALS—Cont'd
Penalties, imposition of	External—Cont'd
admissibility of evidence, 6:55	evidence
disqualification, 6:52	compelling panel members to
enforcement, 6:62	testify, 7:11
factors to be considered, 6:56	fresh, 7:15
range of	production
conditions of practice, 6:57	confidential communications, 7:13
costs, 6:59	governing body's complete
publication of member's identity, 6:60	file, 7:14
remedial training, 6:58	governing body's legal opinions, 7:12
submissions on	preliminary ruling, 7:4
joint, 6:54	security for costs, 7:9
timing of, 6:53	status to commence, 7:3
whether discharged in bank-	stay of penalty
ruptcy, 6:63.50 Reconsideration, 6:66	caselaw re, 7:8
	constitutional right to seek, 7:7
Standard of proof, 6:46	test to be applied
Testimony, compelling, 6:26 Withholding of pay, 6:63	imposition of penalty, from,
withholding of pay, 0:03	7:17
ADMINISTRATIVE REVIEW	misconduct finding, from,
TRIBUNALS	7:16
Generally, 7:18.50	Internal, 7:1
Deference, 7:18.50	Judicial review, 7:20
Standard of review, 7:18.50	Quebec professions tribunal, 7:19 Standard of review, 7:18.50
ADMISSION	Standard of review, 7:18.50
See Membership	AUDITS, SPOT
ADVEDERIGING	Generally, 4:11
ADVERTISING	BANKRUPTCY
See Marketing of services	Discharge of penalties and civil
APPEALS	remedies, 6:63:50
Administrative review tribunals, 7:18.50	BIAS
Deference, 7:18.50	See Adjudication, hearing panel
External	CANADIAN CHARTER OF
administrative review tribunals, 7:18.50	RIGHTS AND FREEDOMS
appeal by complainant, 7:5	Administrative decision makers,
ban on publication, 7:10	consideration of Charter by,
counsel, 7:18	11:17.50
	Admission to membership and, 1:1
delay in pursuing, 7:6	Equality rights, 1:1

CANADIAN CHARTER OF COMPLAINTS—Cont'd RIGHTS AND FREEDOMS Charges -Cont'd joining of multiple complaints, Freedom of association notifying member re, 5:33 compulsory fees, 1:14 anonymity of registrant, Freedom of expression, 9:1, 9:2, 5:33.50 11:17.50 standard of proof, 5:30 Judicial review, 11:17.50 wording of charge, 5:31 Legal rights Confidentiality of correspondence, see Adjudication 5:27 Mobility rights, 1:1, 2:1 Content of Prosecution re unauthorized complaint defined, 5:13 practice, 3:18 libellous complaints, 5:14 "Reasonable" restrictions on Freedom of information legislation, marketing, 9:2 5:39 Security of the person, **6:47** Investigation by governing body Text of authority re see Appendix (p. AP-1) disciplinary action by employer, after, 5:8 **CHARGES** former member, 5:2 See Complaints member acting as a trustee in CIVIL PROCEEDING bankruptcy, 5:9 member acting as politician, Admissibility of hearing at, 6:50 5:4 Contemporaneous disciplinary and member acting as prosecutor, civil proceeding, 5:21 5:5 **CLIENTS' FUNDS** member acting beyond profession, **5:6** Acting in professional capacity, 8:5 Compensation re loss of member of prior organization, 5:3 Criminal Code, orders under, 8:7 pre-membership conduct, 5:7 governing body's discretion, 8:6 double jeopardy, 5:11 Misuse of duty to act fairly, **5:10** misappropriation, meaning of, procedure 8:3 access to information from wrongful conversion, meaning of, third parties, 5:22 8:4 human rights legislation, Restrictions on deposit of, 8:1 compliance with, 5:18 legislative, 5:17 **COMPLAINTS** reasonable time requirement Adjudication of coinciding criminal proceedsee Adjudication ings, 5:20 Allegations, communicating details contemporaneous disciplinof, 5:34 ary and civil proceed-

Attorney General, role of, 5:40

ings, 5:21

COMPLAINTS—Cont'd **EVIDENCE** Investigation by governing body Adjudication on -Cont'd see Adjudication procedure—Cont'd Admissibility of hearing transcript reasonable time requirement in subsequent civil proceeding, —Cont'd 6:50 delay by governing body, Admissibility of previous 5:19 misconduct in penalty hearing, requiring production of docu-6:55 ments from a registrant, Appeal, on 5:26 see Appeals, external requiring production of docu-Character evidence, 6:35 ments from police, 5:25 Complaint letters, 6:30 sharing information with Credibility of complainant, 6:33 police, 5:24 Cross-examination of investigating staff investigation, 5:23 committee, 6:32 Prosecutorial vs. adjudicative func-Cross-examination of witness, **6:31** tions, 5:37 Cross-examination on previous Protecting anonymity, 6:39 inconsistent testimony, 6:41 Response by member, 5:28 Disclosure of privileged com-Status to make, 5:15 munication, 6:38 Subpoenas, power to issue, 5:35 Hearing evidence in absence of Suspension pending hearing, 5:36 member, **6:37** Hearsay, 6:29 CONFLICT OF INTEREST Mental capacity, 6:36.50 See Lawyer as counsel Prosecutor's duty to disclose, 12:11 COSTS Protecting anonymity of complain-Generally, 7:21 ants, 6:39 Similar fact evidence, 6:34 **CUSTODIANSHIP ORDER** Testimony given at a previous See Intervention in practice proceeding, 6:40 Testimony of member, compelling, **DEFERENCE** 6:26 External administrative review tribunals, 7:18.50 Testimony of panel members, com-

DELAY

Appeal, in pursuing, **7:6**Investigation of complaints, **5:19**Prosecution by governing body, **3:20**

DELEGATION OF ADJUDICATIVE FUNCTIONS

Generally, 6:1

FREEDOM OF INFORMATION LEGISLATION

pelling, **7:11**

see Remuneration

Withholding of pay, 6:63

Membership, 1:14

Remuneration

FEES AND ASSESSMENTS

Generally, 5:39

GOVERNING BODY

Accountants' liability to, **8:9** Election of, **1:16** Liability in negligence, **8:8**

HEALTH PROFESSIONS REVIEW AND APPEAL BOARD (ON)

Generally, **7:18.50**Deference, **7:18.50**Standard of review, **7:18.50**

HEALTH PROFESSIONS REVIEW BOARD (BC)

Generally, **7:18.50**Deference, **7:18.50**Standard of review, **7:18.50**

HEARINGS

See Adjudication

INTERVENTION IN PRACTICE

Client files, retention and disposition of, 4:17
Creditor, action by, 4:16
Custodianship order, under constitutionality of, 4:12
custodian's compensation, 4:14
custodian's immunity from damages action, 4:15
disposition of property held by custodian, 4:13
Peer assessments, 4:10
Searches
see Searches
Spot audits, 4:11

INVESTIGATION OF COMPLAINTS

See Complaints

JUDICIAL REVIEW

Generally, 5:38, 7:20

LAWYER AS COUNSEL

Communication with opposing party directly, **12:10**

LAWYER AS COUNSEL—Cont'd

Conflict of interest client vs. client acting against former client after changing firms, 12:5 after merger of firms, 12:6 cross-examination of former client, 12:7 general, 12:8 acting concurrently, 12:4 counsel vs. client, 12:3 judge, having previously acted for accused, 12:9 Counsel and witness, acting as at trial, 12:13 on appeal, 12:14 Criticism of counsel, 12:16 Criticism of judiciary, 12:17 Disclosure of evidence,

Disclosure of evidence,
prosecutor's duty re, 12:11
Duty of candour and fairness, 12:18
Right to appear in court, 12:1
Withdrawal as counsel, 12:15

LICENCES

See Unauthorized practice

MALICIOUS PROSECUTION

Generally, 6:64

MARKETING OF SERVICES

Commercial advertising, 9:1
Customer incentive programs, 9:5
"Freedom of expression" Charter
guarantee, 9:1, 9:2
Office location, regulation of, 9:3
"Reasonable" restrictions, 9:2
Statements to media, regulation of, 9:4

MEMBERSHIP

Admission

Charter attacks re restrictions, 1:1 citizenship requirement, 1:2 educational requirements, 1:5 good character, 1:3 holding incompatible office, 1:6

MEMBERSHIP—Cont'd ONUS OF PROOF Admission—Cont'd Generally, 6:45 mental health, 1:4 PEER ASSESSMENTS recognition of law degrees, 1:7 Generally, 4:10 suitability of law firm to train articled student, 1:8 **PENALTIES** Attorney General, whether must be Generally, see Adjudication a lawyer, **3:15** Bankruptcy, **6:63.50** Continuing professional develop-Stay of ment. 1:24 see Appeals, external Fees and assessments, 1:14 Suspension Forms of practice, 1:15 see Suspension Governing body, election of, 1:16 Non-statutory association, 1:23 PRACTICE, UNAUTHORIZED Physician-assisted death, 1:25 See Unauthorized practice Regulatory body, accountability to another, 1:18 **PRIVILEGED** Reinstatement **COMMUNICATIONS** competence, 1:11 Confidentiality of correspondence, good character, 1:12 procedure, 1:13 Disclosure of, 6:38 Resignation from, 1:9 Solicitor-client, 4:1 Social services tax on legal fees, PROFESSIONAL MISCONDUCT 1:19 See also Clients' funds: Unautho-Vaccine mandates, 1:26 rized practice MISCONDUCT Bad manners and incivility, 11:13 See Professional misconduct Breach of fiduciary duty, 11:17 MOBILITY, Cooperation with investigation, INTER-JURISDICTIONAL failure re, 11:6 Criticism of judiciary, 12:17 Insurance, 2:5 Inter-jurisdictional firms, 2:9 Defined, 11:2 Permanent transfer Failure to respond to colleague, 11:8 educational requirements, 2:7 Harassment, 11:14 previous practical experience, 2:8 **Temporary** Improper billing, 11:9 administrative regulation of, 2:2 Improper criticism of colleagues, Charter provision re, 2:1 11:15 membership requirement, 2:3 "Incompetence," meaning of, 11:4 office maintenance requirement, Member's failure to respond, 11:5 2:4 Miscellaneous, 11:18 Prescription of medications, MUTUAL LEGAL ASSISTANCE improper, 11:12 IN CRIMINAL MATTERS

Public statements, 11:17.50

Reporting requirement, 11:7

ACT Generally, 4:8

PROFESSIONAL MISCONDUCT

-Cont'd

Sexual improprieties with patient, 11:11

Social media, 11:17.50

Tax evasion, 11:16

Trust funds, misuse of, 11:10

"Unbecoming conduct," meaning of. 11:3

PUBLICATION BANS

Appeal, at, **7:10**

Hearing, at, 6:22

REINSTATEMENT

See Membership

REMUNERATION

Action to recover fees, 10:4

Contingent fee agreements, 10:1

Costs, non-professional litigant's right to, 10:5

Governing body review of, 10:3

Improper billing, 11:9

Prescribed fee schedules, 10:2

Provincial taxation of, 10:6

RESIGNATION

Generally, 1:9

SEARCHES

Criminal Code

general investigations, 4:1

proceeds of crime investigations,

4:2

Income Tax Act

constitutionality of warrants, 4:4

duty to seal documents, 4:5

taxpayer information, 4:7

trust accounting records, 4:6

SEXUAL IMPROPRIETIES WITH **PATIENT**

Generally, 11:11

SOLICITOR-CLIENT **PRIVILEGE**

Generally, **4:1**

SOLICITOR-CLIENT

PRIVILEGE—Cont'd

Mutual Legal Assistance in Criminal Matters Act, 4:8

STANDARD OF PROOF

Generally, 6:46

STANDARD OF REVIEW

Generally, 11:17.50

External administrative review tribunals, 7:18.50

SUSPENSION

See also Penalties

Pending hearing, 5:36

Unauthorized practice while under,

TITLES

See Unauthorized practice

TRUST FUNDS

See Clients' funds; Professional misconduct

UNAUTHORIZED PRACTICE

Injunction, 3:21

Licence, practising without, 3:2

Notary public, practice of law by,

Paralegals, by, 3:6

Peace officer acting as prosecutor,

Practice before Federal Court, 3:16

Prosecution by governing body re

Charter validity, 3:18

contempt of court proceedings,

3:19

delay re, 3:20

Ouebec advocates and notaries, 3:5

Representation of a business

by director, 3:10

by employee, 3:9

by insurance adjuster, 3:11

by lay officer of corporation, 3:8

Student-at-law, 3:12

Suspension, while under, 3:3

Self-Governing Professions

UNAUTHORIZED PRACTICE —Cont'd

Title insurance, provision, **3:14**Titles, use of, **3:1**Union representative, practice of law by, **3:13**

UNAUTHORIZED PRACTICE —Cont'd

Vexatious litigant, 3:22