

Table of Contents

CHAPTER 1. ROLE OF MINISTER OF HEALTH

I. ROLE OF MINISTER OF HEALTH

- § 1:1 Duties of Minister
- § 1:2 Powers of Minister

II. COLLEGE PERFORMANCE MEASUREMENT FRAMEWORK

- § 1:3 Generally

CHAPTER 2. ROLE AND STRUCTURE OF THE COLLEGES

I. CORPORATE STATUS

- § 2:1 Generally

II. OBJECTS AND DUTIES OF COLLEGE

- § 2:2 General Objects and Duties
- § 2:3 Particular Objects and Duties—Confidentiality
- § 2:4 —French Language Services

III. PERSONS UNDER JURISDICTION OF COLLEGE

- § 2:5 Generally

IV. INTERNAL STRUCTURE OF COLLEGE

- § 2:6 College Council
- § 2:7 Executive Committee
- § 2:8 Registrar
- § 2:9 Other Committees
- § 2:10 Members

V. REGULATIONS AND BY-LAWS

- § 2:11 Generally

VI. SPECIAL PROVISIONS AND PROTECTIONS

- § 2:12 Immunity Provision
- § 2:13 Restraining Orders
- § 2:14 Simplifying Proof of Matters
- § 2:15 Serving Documents

CHAPTER 3. REGISTRATION

I. APPLICATION FOR REGISTRATION

A. INTRODUCTION; BEFORE THE REGISTRAR

- § 3:1 Introduction
- § 3:2 Before the Registrar

B. BEFORE THE REGISTRATION COMMITTEE

- § 3:3 Functions of Registration Committee
- § 3:4 Procedure on New Applications
- § 3:5 Issues to be Determined on New Applications
- § 3:6 Interpreting Registration Requirements
- § 3:7 Good Character Requirements
- § 3:8 Equivalency and Mobility Issues
- § 3:9 Exemptions
- § 3:10 Possible Orders by Registration Committee on New Applications
- § 3:11 Applications to Vary Terms, Conditions or Limitations

C. BEFORE THE HEALTH PROFESSIONS APPEAL AND REVIEW BOARD

- § 3:12 Availability of Review or Hearing
- § 3:13 Procedure for Both Review and Hearing
- § 3:14 Procedure Specific to Reviews
- § 3:15 Procedure Specific to Hearings
- § 3:16 Disposition by Board

D. BEFORE THE COURTS

- § 3:17 Generally

II. FALSE STATEMENTS ON APPLICATION FOR REGISTRATION; FAIRNESS REQUIREMENTS

- § 3:18 False Statements on Application for Registration

TABLE OF CONTENTS

§ 3:19 Fairness Requirements

**III. ADMINISTRATIVE SUSPENSIONS;
PROFESSIONAL CORPORATIONS**

§ 3:20 Administrative Suspensions (E.G. Non-Payment of
Fees)

§ 3:21 Professional Corporations

**CHAPTER 4. MANDATORY REPORTS AND
THE PUBLIC REGISTER**

I. MANDATORY REPORTS

A. THIRD PARTY REPORTS

§ 4:1 Introduction

§ 4:2 General Requirement to Report Sexual Abuse

§ 4:3 Reports of Sexual Abuse Obtained During
Psychotherapy

§ 4:4 Termination Reports

§ 4:5 Facility Reports

B. SELF-REPORTS

§ 4:6 Introduction

§ 4:7 Findings of Offences

§ 4:8 Findings of Professional Negligence

§ 4:9 Status with Other Professional Regulators

§ 4:10 Offence Charges and Release Restrictions

**C. HANDLING OF MANDATORY REPORTS BY
COLLEGE**

§ 4:11 Generally

**II. NATURE OF THE REGISTER; CONTENT OF
THE REGISTER**

§ 4:12 Nature of the Register

§ 4:13 Content of the Register

**III. ACCESS TO THE REGISTER;
ADMINISTRATION OF THE REGISTER**

§ 4:14 Access to the Register

§ 4:15 Administration of the Register

CHAPTER 5. INVESTIGATIONS AND COMPLAINTS

I. INTRODUCTION: INQUIRIES, COMPLAINTS AND REPORTS COMMITTEE

§ 5:1 Introduction

§ 5:2 Composition of Inquiries, Complaints and Reports Committee

II. INVESTIGATING A COMPLAINT

§ 5:3 What Constitutes a “Complaint”

§ 5:4 Providing Notice to the Member and the Complainant

§ 5:5 Providing Notice of the Prior History of the Member

§ 5:6 Securing Evidence Before Notification of the Member

§ 5:7 Frivolous and Vexatious Complaints

§ 5:8 Alternate Dispute Resolution (ADR)

§ 5:9 Investigative Steps in Complaints Matters

§ 5:10 Time Limits for Investigation and Board’s Power to Investigate

§ 5:11 Effect of the Complainant Withdrawing or Abandoning Complaint

§ 5:12 Death or Incapacity of Complainant

§ 5:13 Repeated Complaints by Same Complainant

III. FORMAL INVESTIGATIONS

§ 5:14 Introduction

§ 5:15 Investigations Without a Formal Appointment

§ 5:16 Types of Formal Appointments

§ 5:17 Making a Formal Appointment

§ 5:18 Powers of Investigator

§ 5:19 Obstruction of Investigators

IV. CONSIDERING A REGISTRAR’S REPORT

§ 5:20 Introduction

§ 5:21 Notice of Receipt of the Report to Member

TABLE OF CONTENTS

**V. PROCEDURE BEFORE ICRC; DISPOSITION
BY ICRC; NOTICE OF DECISION AND
REASONS OF THE ICRC**

- § 5:22 Procedure Before ICRC
- § 5:23 Disposition by ICRC
- § 5:24 Notice of Decision and Reasons of the ICRC

**VI. REVIEW BY HEALTH PROFESSIONS APPEAL
AND REVIEW BOARD IN COMPLAINTS
MATTERS**

- § 5:25 Availability of Review
- § 5:26 Procedure on Review
- § 5:27 Disposition by Board

VII. REVIEW BY A COURT

- § 5:28 Generally
- Appendix 5A. Precedents

CHAPTER 6. DISCIPLINE PROCEEDINGS

**I. REFERRAL TO DISCIPLINE; INTERIM
ORDERS**

- § 6:1 Referral to Discipline
- § 6:2 Interim Orders

II. PROCEDURE BEFORE HEARING STARTS

- § 6:3 Introduction
- § 6:4 Notice of Hearing
- § 6:5 Disclosure Requirements
- § 6:6 Panel Composition and Quorum
- § 6:7 Appearance of Bias
- § 6:8 Parties and Other Participants in the Hearing
- § 6:9 Scheduling and Adjourning the Hearing
- § 6:10 Pre-Hearing Conferences

III. PROCEDURE AT DISCIPLINE HEARING

- § 6:11 Introduction
- § 6:12 Checklist for Starting the Hearing

COMPLETE GUIDE TO THE REGULATED HEALTH PROFESSIONS ACT

- § 6:13 Order of Proceedings
- § 6:14 Public Access to Discipline Hearings
- § 6:15 Amending the Notice of Hearing, Joining Referrals
and Withdrawals
- § 6:16 Severing Multiple Allegations
- § 6:17 Objections and Motions
- § 6:18 Independent Legal Advice for the Discipline
Committee
- § 6:19 Committee's Questioning of Witnesses
- § 6:20 Hearing Transcripts

IV. EVIDENCE AT HEARING

- § 6:21 Rules of Evidence
- § 6:22 Decisions to Be Based Exclusively on the Evidence
- § 6:23 Handling Exhibits and Compiling a Record
- § 6:24 Onus and Standard of Proof

V. FINDINGS OF PROFESSIONAL MISCONDUCT

A. INTRODUCTION; PROVISION DEFINING MISCONDUCT IS INVALID

- § 6:25 Introduction
- § 6:26 Provision Defining Misconduct is Invalid

B. DEFINITION OF PROFESSIONAL MISCONDUCT

- § 6:27 Introduction
- § 6:28 Breaking the Law
- § 6:29 Misconduct Findings by Other Regulators
- § 6:30 Sexual Misconduct
- § 6:31 Inappropriate Behaviour towards Patients or the
Public
- § 6:32 General Catch-all Definition
- § 6:33 Conduct Unbecoming a Member
- § 6:34 Failure to Maintain the Standard of Practice
- § 6:35 Record-keeping Requirements
- § 6:36 Certificates, Reports and Copies of Records
- § 6:37 Informed Consent
- § 6:38 Delegation and Supervision
- § 6:39 Disclosing Confidential Information
- § 6:40 Conflict of Interest

TABLE OF CONTENTS

- § 6:41 Improper Fees
- § 6:42 Misrepresentation
- § 6:43 Theft and Taking Financial Advantage of Clients
- § 6:44 Improper Use of Names, Titles or Descriptions
- § 6:45 Improper Advertising
- § 6:46 Conduct towards Colleagues
- § 6:47 Conduct towards the College
- § 6:48 Mandatory Reporting Requirements
- § 6:49 Exceeding Restrictions on Certificate or Scope of Practice

C. INTENT TO ENGAGE IN MISCONDUCT

- § 6:50 Generally

D. LEGAL DEFENCES TO MISCONDUCT PROSECUTIONS

- § 6:51 Introduction
- § 6:52 Abuse of Process and Delay
- § 6:53 Issue Previously Determined by College
- § 6:54 Other Proceedings for Same Conduct
- § 6:55 Hearing Held While Person Not a Member
- § 6:56 Legal Immunity Applies
- § 6:57 Trivial Breach

VI. INCOMPETENCE

- § 6:58 Generally

A. INTRODUCTION; POSSIBLE ORDERS

- § 6:59 Introduction
- § 6:60 Possible Orders in Misconduct Cases
- § 6:61 Possible Orders in Incompetence Cases

B. DECIDING WHICH ORDER TO MAKE

- § 6:62 Introduction
- § 6:63 Nature of Misconduct or Incompetence
- § 6:64 Prior Decisions
- § 6:65 Prior Conduct by Practitioner
- § 6:66 Subsequent Conduct of Practitioner
- § 6:67 Conduct of Practitioner's Defence
- § 6:68 Character of Practitioner

COMPLETE GUIDE TO THE REGULATED HEALTH PROFESSIONS ACT

§ 6:69 Effect of Order on Practitioner

§ 6:70 Ungovernability

C. COST ORDERS

§ 6:71 Introduction

§ 6:72 Costs Payable by College to Practitioner

§ 6:73 Costs Payable by Practitioner to College

§ 6:74 Procedure for Ordering Payment of Costs

**D. DECISIONS AND REASONS; PUBLICATION
AND PUBLIC ACCESS TO DISCIPLINE
DECISIONS**

§ 6:75 Decision and Reasons

§ 6:76 Publication and Public Access to Discipline
Decisions

**VIII. APPEALS AND REINSTATEMENT
APPLICATIONS**

§ 6:77 Appeals

§ 6:78 Reinstatement Applications

Appendix 6A. Precedents

**CHAPTER 7. INCAPACITY OF
PRACTITIONERS**

I. INTRODUCTION

§ 7:1 Generally

II. INQUIRIES

§ 7:2 Appointment of an ICRC Panel

§ 7:3 ICRC Inquiries Procedure—Purpose of ICRC
Inquiries

§ 7:4 —Inquiries by ICRC Panel

§ 7:5 —Specialist Examinations

§ 7:6 —ICRC Report

III. ICRC CONSIDERATION OF ITS REPORT

§ 7:7 Referral to Fitness to Practise Committee

§ 7:8 Making Interim Order

TABLE OF CONTENTS

IV. FITNESS TO PRACTISE COMMITTEE

- § 7:9 Introduction
- § 7:10 Parties to Fitness Hearing
- § 7:11 Procedure at Fitness Hearing
- § 7:12 Evidence at Fitness Hearing
- § 7:13 Disposition of Fitness Hearing
- § 7:14 Varying Order of Fitness to Practise Committee

V. APPEALS AND REINSTATEMENT APPLICATIONS

- § 7:15 Appeals
- § 7:16 Reinstatement Applications

Appendix 7A. Precedents

CHAPTER 8. APPEALS, REINSTATEMENT AND OTHER REMEDIES

- § 8:1 Introduction
- § 8:2 Reconsideration of Decision by Discipline or Fitness to Practise Committee
- § 8:3 Appeals
- § 8:4 —Availability of Appeals
- § 8:5 —Procedure on Appeal
- § 8:6 —Scope of Appeal
- § 8:7 —Orders by Appellate Court
- § 8:8 Judicial Review
- § 8:9 Reinstatement Applications
- § 8:10 Complaint to Human Rights Tribunal
- § 8:11 Complaint to the Ombudsman
- § 8:12 Court Action for Declaration or Injunction
- § 8:13 Court Action for Damages
- § 8:14 Remedy Under s. 24 of the *Canadian Charter of Rights and Freedoms*

CHAPTER 9. QUALITY ASSURANCE

- § 9:1 Introduction
- § 9:2 Types of Quality Assurance Programs
- § 9:3 Powers of Quality Assurance Committee
- § 9:4 —Powers of Assessment
- § 9:5 —Powers to Require Practitioners to Take Action
- § 9:6 Procedure Before Quality Assurance Committee

§ 9:7 Confidentiality Requirements

CHAPTER 10. SEXUAL ABUSE PROVISIONS

- § 10:1 Introduction
- § 10:2 Definition of Sexual Abuse
- § 10:3 Measures to Prevent and Deal with Sexual Abuse
- § 10:4 Mandatory Reports
- § 10:5 Effective Discipline for Sexual Abuse
- § 10:6 —Informal Resolution of Non-touching Cases
- § 10:7 —Interim Orders
- § 10:8 —Public Hearings with Protection of Identity of Sexual Abuse Witnesses
- § 10:9 —Intervenors
- § 10:10 —Disclosure of Evidence
- § 10:11 —Impact Statements by Patients
- § 10:12 —Penalties
- § 10:13 —Cost Recovery Provision
- § 10:14 —Effect of Appeal
- § 10:15 —Access to Decisions of Discipline Committee
- § 10:16 Funding Program

Appendix 10A. Precedent

CHAPTER 11. CONTROLLED ACTS AND PROTECTED TITLES

I. INTRODUCTION

- § 11:1 Generally

II. PROHIBITIONS

- § 11:2 Controlled Acts—Definitions of Controlled Acts
- § 11:3 —Location of Performance of the Controlled Act (Telepractice)
- § 11:4 —Delegation of Controlled Acts
- § 11:5 —Exceptions to Controlled Acts
- § 11:6 Miscellaneous Prohibitions in the RHPA
- § 11:7 Harm Clause
- § 11:8 Offences Outside the RHPA

III. MISREPRESENTATIONS OF TITLES OR STATUS

- § 11:9 Introduction

TABLE OF CONTENTS

- § 11:10 Use of Title “Doctor”
- § 11:11 Holding Out as a College
- § 11:12 Use of Prohibited Title
- § 11:13 Holding Out

IV. METHODS OF ENFORCEMENT

- § 11:14 Introduction
- § 11:15 Discipline Proceedings
- § 11:16 Provincial Offences Prosecution
- § 11:17 Restraining Order
- § 11:18 Criminal Prosecution

V. EVIDENCE

- § 11:19 Generally

APPENDICES

- Appendix A. Regulated Health Professions Act
- Appendix B. Regulated Health Professions Act Procedural Code
- Appendix C. Regulations Under Regulated Health Professions Act

Table of Cases

Index