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A COMPLETE GUIDE TO THE REGULATED HEALTH PROFESSIONS ACT Richard Steinecke Release No. 2, October 2025

This publication provides a systematic explanation of how the law of self-regulation works, with particular focus on health practitioners in Ontario, and includes: examples, illustrations, flow charts, forms, checklists and precedents; an explanation of every aspect of the *Regulated Health Professions Act* (RHPA); complete text of the RHPA, Procedural Code and statutes such as the *Statutory Powers Procedure Act*, as well as everything needed for a hearing or meeting, and extensive case citations.

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What's New in this Update:

This release features a new Chapter 6.50 (Disciplinary Sanctions and Orders), and updates to the caselaw and commentary in Chapters 2 (Role and Structure of the Colleges), 3 (Registration), 5 (Investigations and Complaints), 6 (Discipline Proceedings), 8 (Appeals, Reinstatement and other Remedies), 9 (Quality Assurance) and 11 (Controlled Acts and Protected Titles). Additionally, the legislation in the Appendices has been updated.

Highlights:

- **New Chapter 6.50 Disciplinary Sanctions and Orders:**
In this release we have added an entire chapter on the principles of determining sanctions (penalty) in discipline hearings. This unique and comprehensive resource updates the approach to sanctioning and explains how it is evolving from its criminal sentencing roots. The purpose-driven sanctions approach is fundamentally different from the traditional placing-in-the range method previously used. The chapter discusses the purpose of sanctions, how the various types of sanctions help achieve those goals, and how to balance the various considerations that go into selecting the most suitable sanction. The chapter also has a section on how costs can be assessed following a discipline hearing.

Other developments worth emphasizing include the following:

- *Afolabi v. Law Society of Ontario*, 2025 ONCA 257, 2025 CarswellOnt 4952 (Ont. C.A.) (suspected cheating on exam can result in the administrative nullification of the exam results following a written process that allows for submissions from the applicant but does not require a hearing);
- *British Columbia College of Nurses and Midwives v. Lemay*, 2025 BCSC 1000, 2025 CarswellBC 1620 (B.C. S.C.) (where solicitor and client documents are obtained, measures must be taken to prevent the investigator from reviewing them, such as retaining an independent counsel to separate them so they can be returned to the client);
- *Resource Productivity and Recovery Authority v. Environmental 360 Solutions Ltd.*, 2025 ONSC 2244, 2025 CarswellOnt 6379 (Ont. Div. Ct.) (under different legislation, regulators generally have broad discretion whether to commence enforcement activities, absent abuse of process or bad faith);
- *Kilian v. College of Physicians and Surgeons of Ontario*, 2025 ONSC 2829, 2025 CarswellOnt 7210 (Ont. Div. Ct.) (“Finally, it was reasonable for the ICRC to conclude that Dr. Kilian’s failure to cooperate with the College’s investigation was itself evidence of probable harm to patients.... The College has a

duty to regulate physicians in the public interest and to protect patients. The College cannot effectively do so without physicians complying with their duty to cooperate. When physicians fail to cooperate with the College, the safety of patients and the public is endangered.”);

- *Vento Motorcycles, Inc. v. Mexico*, 2025 ONCA 82, 2025 CarswellOnt 1113 (Ont. C.A.) (communication between panel member and counsel to a party about future opportunities constitutes an appearance of bias);
- *Aroma Franchise Company, Inc. v. Aroma Espresso Bar Canada Inc.*, 2024 ONCA 839, 2024 CarswellOnt 17813 (Ont. C.A.), leave to appeal refused 2025 CarswellOnt 11905, 2025 CarswellOnt 11906 (S.C.C.) (counsel to a party retaining arbitrator for another matter does not, in the circumstances, constitute an appearance of bias);
- *Law Society of Ontario v. McCallum*, 2024 ONLSTH 103 (L.S. Tribunal) (the unhinged test for rejecting a joint submission does not apply where there was a contested hearing on the merits);
- *R. v Wesley*, 2025 ONCA 51, 2025 CarswellOnt 760 (Ont. C.A.), leave to appeal refused 2025 CarswellOnt 10433, 2025 CarswellOnt 10434 (S.C.C.) (stringent test for accepting joint submission does not apply where there was not a guilty plea);
- *Dr Ignacio Tan III v. Alberta Veterinary Medical Association*, 2025 ABCA 119, 2025 CarswellAlta 791 (Alta. C.A.) (“In sum, the scientific and philosophical dimensions of professional misconduct rested on experience, knowledge and common sense and could be the subject of general professional understanding. There is no requirement in law for precise rules about every professional default of the appellant before a charge could be founded on such a deficit.”).
- After preparing the new chapter, a significant case was released by the Alberta Court of Appeal: *Charkhandeh v. College of Dental Surgeons of Alberta*, 2025 ABCA 258, 2025 CarswellAlta 1630 (Alta. C.A.). The Court adopted a viewpoint to disciplinary sanctions consistent with the purpose-driven sanctions described in the new chapter in this book. However, on the issue of costs, the Court said that the authority to award costs against a registrant “should be exercised in a principled, transparent and reasonable manner”. Awarding a percentage of total costs was discouraged. Rather the discipline panel should focus on what amount should be appropriately transferred to the registrant based, for example, on how they conducted their defence. Costs that could legitimately be viewed as “overhead” should be borne by the regulator. Other Canadian jurisdictions do not currently take this approach.

