

Draft Bylaws:

**College of Health and Care
Professionals of British Columbia**

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11.0 Public Protection

Requirements for Regulatory Report

- 11.1 A Regulatory Report must be in writing and delivered to the Registrar.
- 11.2 In addition to the applicable requirements set out in sections 84-87 of the Act, a Regulatory Report must include:
- (a) the name and contact information of the person making the report;
 - (b) if the report is made on behalf of another person, a public body, or an organization, the name of that person, public body, or organization;
 - (c) the Respondent's name, if available, or information by which the College may identify the Respondent;
 - (d) the concerns that triggered the report;
 - (e) any supporting materials or documentation available to the person making the report; and
 - (f) any other information required by the Registrar.

Requirements for Regulatory Complaint

- 11.3 A Regulatory Complaint under section 120 of the Act must include:
- (a) the Complainant's name and contact information;
 - (b) the Respondent's name, if available, or information by which the College may identify the Respondent;
 - (c) the specific matters of concern, including where they took place; and
 - (d) any supporting materials or documentation available to the Complainant.
- 11.4 The Registrar must offer all reasonable assistance to a person who wishes to make a Regulatory Complaint in writing but is not readily able to do so.
- 11.5 The Registrar may vary any requirement applicable to a Regulatory Complaint if the Registrar is satisfied that doing so:
- (a) is appropriate to accommodate the Complainant's individual circumstances; and
 - (b) will not create procedural unfairness to the Respondent.

Application for Reconsideration of Notice of Intent or Termination Order

- 11.6 An application for Reconsideration under section 240(5) of the Act must be submitted in the form specified by the Registrar not later than 30 days following receipt of the Notice of Intent to take action or the Termination Order as applicable.

Registrar's Authority

- 11.7 The Registrar is authorized to make Disciplinary Orders under section 270(1)(a), 270(1)(b), 270(2), or 271(1)(a) of the Act, when disposing of an Administrative Matter under section 109 of the Act.

Monetary penalty for Administrative Matters

- 11.8 Subject a lesser amount prescribed by Regulation, the maximum amount of a monetary penalty for an Administrative Matter under section 109(1)(d) of the Act is \$100,000.

Review of Disciplinary Order

- 11.9 A Respondent may seek a review of a Disciplinary Order under section 109(1)(b), (c) or (d) of the Act by providing a request for review in the form specified by the Registrar within 30 days following receipt of the Disciplinary Order.
- 11.10 The Registrar must provide a request for review of a Disciplinary Order submitted in accordance with Bylaw 11.9 to the Investigation Committee.
- 11.11 The hearing of a review of a Disciplinary Order under section 382(6)(a) of the Act will be a hearing based on written submissions unless the Investigation Committee determines there are exceptional circumstances requiring a different form of hearing.

Monitoring regulatory compliance

- 11.12 The Registrar is authorized to establish and administer a Monitoring Program of the College.
- 11.13 A Licensee must cooperate and comply with any request made as part of a Monitoring Program.
- 11.14 For the purposes of Bylaw 11.13, requirements for a Licensee's participation as part of a Monitoring Program may include, but are not limited to:
- (a) completing and submitting a compliance report or self-assessment;
 - (b) responding to requests and answering all questions in a prompt and complete manner;
 - (c) providing access to all requested information, files, and records in the Licensee's possession or control, including but not limited to information, files, or records related to the

Licensee's compliance with the applicable requirements for licensure, quality assurance requirements, and standards of practice and ethics;

- (d) attending one or more interviews, either in person or by electronic means as directed, which interviews may be recorded by audio and/or video; and
- (e) facilitating office and site visits, in person or by electronic means, including taking reasonable steps to arrange for office and site access.

Competence Assessments

11.15 In accordance with section 132(2)(b) of the Act, an Investigator is authorized to order a Competence Assessment to evaluate one or more of the following:

- (a) the Respondent's knowledge and understanding of the regulatory requirements applicable to the practice of the Designated Health Profession, including Practice Standards, Ethical Standards, and anti-discrimination measures; and
- (b) any other aspect of the Respondent's practice which might assist in assessing whether the Respondent is competent to practice the Designated Health Profession.

Final investigation report

11.16 The Registrar must provide the final Investigation report to the Respondent for response before the Investigation Committee determines whether there are reasonable grounds to believe that the Respondent lacks competence or has committed an act of misconduct.

11.17 The Registrar may provide the final Investigation report, or a portion of it, to the Complainant, if any.

Registrar – Capacity Evaluations

11.18 The Registrar is authorized to exercise the powers and perform the duties of a Capacity Officer.

Notice of the Respondent

11.19 Where the Investigation Committee directs a Capacity Evaluation, the Registrar must promptly deliver a written order for the Capacity Evaluation to the Respondent.

Reconsideration of Continuing Practice Order or Revocation Order

11.20 A Respondent subject to a Revocation Order may apply for a Reconsideration by the Capacity Officer by providing a request for review in the form specified by the Registrar within 30 days following receipt of the order.

- 11.21 A Respondent subject to a Continuing Practice Order may apply for a Reconsideration by the Capacity Officer by providing a request for review in the form specified by the Registrar:
- (a) within 30 days following receipt of the order; or
 - (b) in accordance with the directions of or a schedule set by, or as otherwise authorized by, the Capacity Officer.
- 11.22 The hearing of a Reconsideration of a Revocation Order or a Continuing Practice Order under section 382(6)(a) of the Act will be a hearing based on written submissions, unless the Capacity Officer determines there are exceptional circumstances requiring a different form of hearing.

Summary Protection Orders

- 11.23 The Investigation Committee may make a Summary Protection Order in any circumstances where it has reasonable grounds to believe that:
- (a) a Respondent's practice of a Designated Health Profession may present a significant risk of harm to any person or the public; or
 - (b) a Respondent is providing false or misleading information to Patients or the public and:
 - (i) a person who acts on the information is at significant risk of harm; or
 - (ii) providing the information is an activity that is a health hazard within the meaning of the *Public Health Act*.
- 11.24 A Summary Protection Order may contain one or more of the following limits or conditions on a Respondent's practice:
- (a) a requirement that the Respondent practice under the supervision or direction of a Licensee approved by the Registrar;
 - (b) a requirement that the Respondent practice only in the presence of a person approved by the Registrar;
 - (c) a requirement that the Respondent disclose certain information to Patients;
 - (d) a requirement that the Respondent posts certain signage in a location and form approved by the Registrar;
 - (e) a restriction on one or more types of patients to whom the Respondent may provide professional Health Services;
 - (f) a restriction limiting the scope of professional Health Services the Respondent may provide;
 - (g) a requirement to comply with periodic and/or random practice audits on terms specified by the Registrar; and

- (h) any other limits or conditions considered necessary and appropriate to protect the public from a significant risk of harm.

11.25 The Registrar must promptly deliver a copy of the Summary Protection Order with reasons to the Respondent and the Complainant, if any.

Reconsideration of Summary Protection Order

11.26 A Respondent may apply for Reconsideration of a Summary Protection Order by the Investigation Committee by providing a request for Reconsideration in the form specified by the Registrar:

- (a) within 30 days following receipt of the Summary Protection Order; or
- (b) in accordance with the directions of or a schedule set by, or as otherwise authorized by, the Investigation Committee.

11.27 Upon receipt of a request for Reconsideration under Bylaw 11.26, the Investigation Committee must conduct a Reconsideration as required by section 382 of the Act.

11.28 The hearing of a Reconsideration of a Summary Protection Order under section 382(6)(a) of the Act will be a hearing based on written submissions unless the Investigation Committee determines there are exceptional circumstances requiring a different form of hearing.

Summary Dismissal Order

11.29 Where the Registrar makes a Summary Dismissal Order under section 258 of the Act, the Registrar must:

- (a) deliver to the Respondent, and 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 within 30 days of making the order.

11.30 A Summary Dismissal Order must not be made under section 258(2)(b) of the Act unless reasonable attempts have been made to obtain the information or records necessary to fairly investigate the complaint from other sources.

Summary Disposition Order

11.31 Prior to making an order under section 158 of the Act, the Respondent's consent must be provided in writing.

11.32 Where the Registrar makes an order under section 158 of the Act, the Registrar must:

- (a) deliver to the Respondent, and 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 Regulatory Complaint, and a copy of the order within 30 days of making the order.

Dispositions with or without consent

11.33 Where the Investigation Committee acts under section 136(2)(a) of the Act by making one or more orders under section 157 [*restorative processes*] but subsequently has reasonable grounds to conclude that the Respondent failed to comply in good faith with the order, the Investigation Committee may direct the Registrar to take further action under section 136(2) of the Act.

11.34 Where the Investigation Committee acts under section 136(2)(a) of the Act by proposing one or more orders under section 158 of the Act [*Disposition with respondent's consent*] to which the Respondent fails to consent in whole or in part, the Investigation Committee may direct the Registrar to take further action under section 136(2) of the Act.

Licensee's duties when Practice Authority suspended

11.35 Where a Respondent's Practice Authority is suspended, subject to the terms of any order, a Respondent who is the primary owner or operator of a practice facility:

- (a) may elect to either:
 - (i) arrange for another Licensee acceptable to the Registrar to
 - A. manage and operate the practice facility during the suspension period;
 - B. receive all billings of the practice facility during the suspension period; and
 - C. reimburse the Respondent, out of their billings for the practice facility, only for actual expenses incurred by the Respondent respecting the practice facility; or
 - (ii) close the practice facility during the suspension period.

11.36 During a period of suspension, the Respondent:

- (a) may not benefit or profit financially or otherwise, directly or indirectly, from the practice of any Designated Health Profession regulated by the College;
- (b) must inform the following persons of the order for suspension, its duration, any measures taken to ensure continuity of care for Patients, and any other matters specified by the order, as applicable:
 - (i) if and to the extent required by the Investigation Committee or Registrar, each Patient with whom the Respondent maintains an ongoing professional relationship;

- (ii) if and to the extent required by the Investigation Committee or Registrar, where the Respondent's practice does not involve an expectation of an ongoing professional relationship, each Patient to whom the Respondent is actively providing services;
- (iii) owners of each practice facility in which the Respondent provides services;
- (iv) administrators of any other facility in which the Respondent provides services, including but not limited to hospitals;
- (v) all health professionals or administrative staff involvement in managing the Respondent's Patients; and
- (vi) such other persons specified in the order;
- (c) must, in relation to the medical records of each Patient, arrange for:
 - (i) a transfer of the medical records to a Licensee approved by the Registrar; or
 - (ii) a means, and the information necessary, for each Patient to access a copy of their medical records during the Respondent's suspension; and
- (d) must notify the Registrar of the location of the medical records the Respondent has retained, and the process by which Patients may access their medical records.

Investigation expenses

11.37 Subject to any maximum prescribed amount and section 273(3) of the Act, an order for Investigation expenses must be determined in accordance with Schedule "XX".

Consideration for requesting citation

11.38 The Registrar, in consultation with the Investigation Committee, may propose the content of a Citation to the Director of Discipline.

11.39 For the purposes of a Discipline Hearing under Part 3, Division 16 of the Act, the Registrar is responsible for the College's participation, including retaining and instructing legal counsel.

Administrative and judicial reviews

11.40 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.

Enforcement of Disciplinary Orders

11.41 The Registrar is responsible for establishing a process for the enforcement of orders made under the Act.

Unauthorized practice monitoring program

11.42 The Board authorizes the Registrar to establish and administer an unauthorized practice monitoring program of the College.

11.43 The unauthorized practice monitoring program under Bylaw 11.42 must monitor for and receive reports relating to:

- (a) unauthorized practice of aspects of, or Restricted Activities carried out by, the Designated Health Professions for which the College is responsible; and
- (b) unauthorized use of a title reserved to the Designated Health Professions for which the College is responsible.

Preliminary report and other information to the Investigation Committee

11.44 The Registrar may investigate and dispose of reports of unauthorized practice under section 29 of the Act or unauthorized title use under section 30 of the Act.

11.45 In exercising the powers in Bylaw 11.44, the Registrar may report to the Investigation Committee or seek advice or direction from the Investigation Committee as the Registrar deems appropriate.

11.46 The Registrar must not dismiss a matter on the basis of section 376(1)(b) or 376(1)(c) of the Act, if the Registrar is of the opinion that the matter may present a risk to the public, including a risk that the public may be misled.

11.47 If the Registrar acts under section 377 of the Act:

- (a) the Registrar must, if the matter concerns a person who is a Licensee or a Regulated Health Service Provider accountable to another Regulator under the Act, report the matter to that other Regulator; and
- (b) the Registrar may take steps to alert the public or other public bodies of the matter as the Registrar deems appropriate.