
Discipline Committee Rules of Procedure



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PREAMBLE

The Discipline Process and the Discipline Committee

Regulation of the health professions is aimed at advancing the public interest, not professional self-interest. Health colleges such as the Ontario College of Pharmacists (the “College”) have a statutory duty to serve and protect the public interest. The purpose of disciplinary proceedings is to ensure that members of the College govern themselves in accordance with the *Pharmacy Act, 1991* and the *Regulated Health Professions Act* (the “RHPA”) and the regulations under them. This includes maintaining standards of practice, standards of knowledge and skill, and standards of professional ethics for members. The practice of pharmacy and the operation of pharmacies are also governed by the *Drug and Pharmacies Regulation Act* (the “DPRA”) and the regulations under it.

The procedural details of the disciplinary process are found in the *Health Professions Procedural Code* (the “Code”), which is Schedule 2 to the RHPA. Disciplinary proceedings help the College preserve public confidence in the self-regulation of the profession of pharmacy. This is achieved by giving the public access to the disciplinary process through the ability to file complaints, by allowing the public to access disciplinary proceedings by way of open hearings, and also by publishing the decisions of the Discipline Committee.

The Discipline Committee, while administratively assisted by the College, operates at arm’s length from the College.

Terms of Reference of the Discipline Committee

The By-laws of the College set out the terms of reference of the Discipline Committee. Specifically, By-law No. 2, Article 8.9, states that the duties of the Discipline Committee are to perform such functions as are assigned to it in the RHPA, the Code, the DPRA, and the Regulations thereunder.

The Discipline Committee also shall:

- recommend to Council, through the Executive Committee, proposals for changes to the legislation, including regulations to applicable statutes and By-Laws;
- submit an annual report to the Council in accordance with the Code; and,
- provide guidance to Council on matters concerning discipline.

A copy of By-law No. 2, Article 8.9, can be found at Appendix “1”.

Statutory Jurisdiction of the Discipline Committee

The statutory jurisdiction of the Discipline Committee is to hear and determine allegations of professional misconduct or incompetence.

Ultimately, after hearing the evidence, s.51 of the Code provides that a panel *shall* find a member has committed an act of professional misconduct if:

- the member has been found guilty of an offence that is relevant to the member's suitability to practice;
- the governing body of a health profession in the jurisdiction other than Ontario has found that the member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the regulations;
- the member has failed to co-operate with the Quality Assurance Committee or any assessor appointed by that committee;
- the member has sexually abused a patient; or
- the member has committed an act of professional misconduct as defined in the regulations [i.e., O. Reg. 681/93 made under the *Pharmacy Act*]

For a review of the relevant legislation outlining the Committee's statutory authority, see Appendix "2". A long excerpt from the Code is shown first, followed by short excerpts from the Code (and the DPRA) showing the specific authority of the various committees that refer matters to the Discipline Committee.

Statutory Jurisdiction of the Discipline Committee to make its own Rules

The Statutory Powers Procedure Act (the "SPPA") mandates the minimum standards of procedural fairness applicable to all administrative hearings in Ontario. The SPPA also gives the Discipline Committee the jurisdiction to create rules of procedure. Under the authority of the SPPA, the Discipline Committee has adopted the Rules of Procedure of the Discipline Committee, which apply to all Discipline hearings at the College.

The SPPA will seldom form the basis of any argument before the Discipline Committee because the formal practice at disciplinary hearings generally exceeds the minimum level of standards of the SPPA. Furthermore, the Code mandates higher requirements for evidence and disclosure than what is contained in the SPPA. For example, according to the Code (and despite the provisions of the SPPA), nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on the evidence presented (s.49).

A copy of the SPPA can be found at Appendix "3."

Rule	Contents	Page
1	General Matters	1
2	Methods of Waiving a Rule	5
3	Permission to Resign	6
4	Initiating Motions	7
5	Motions	8
6	Motions for Adjournment	9
7	Evidence on Motions	10
8	Time Limits on Oral Submissions at Motions	11
9	Notice of Constitutional Questions	12
10	Prehearing Conferences	13
11	Disclosure	15
12	Production from Third Parties	16
13	Early Hearing	17
14	Electronic Hearings	18
15	Effect of Non-Attendance at Hearing after Due Notice	19
16	Non-Party Participation	20
17	Right to Representation	21
18	Examination of Witnesses	22
19	Rights of Witnesses to Representation	23
20	Procedure During the Hearing	24
21	Giving Notice of Final Decision	26
22	Costs	27
23	Reinstatement Applications	29
24	Correction of Errors	30
25	Motion to Vary Orders	31
26	Application to Remove Register Information from Public Access	32

Rule 1: GENERAL MATTERS

Citation

1.1 These Rules may be cited as the Rules of Procedure.

Interpretation

1.2 These Rules shall be liberally construed to secure the just, most expeditious determination of all proceedings, with proper regard to reasonable expense, before the Discipline Committee of the College (hereinafter defined).

Definitions

1.3 In these Rules, unless the context requires otherwise,

“chair” means the chair of the full Discipline Committee or his or her designate;

“Code” means the Health Professions Procedural Code which is Schedule 2 to the Regulated Health Professions Act;

“College” means the Ontario College of Pharmacists;

“counsel” means the lawyer or lawyers retained by or on behalf of a party;

“defence counsel” means the lawyer or lawyers retained by or on behalf of a member;

“deliver” means to serve on every other party or in the case of a motion, motion participant, and to file with the Investigations and Resolutions Department with proof of service, and “delivery” and “delivering” have corresponding meanings;

“Discipline Committee” means the Discipline Committee of the College, and includes a panel of the Discipline Committee¹;

“document” includes a sound recording, video tape, electronic media, paper writing and printing, file, photograph, chart, graph, plan, map, survey, book of account and information recorded or stored by means of any device.

“electronic” with respect to a proceeding means a proceeding held by telephone conference call or some other form of electronic technology allowing persons to communicate with and hear one another;

“hearing panel” means a panel of the Discipline Committee presiding over a proceeding;

“holiday” means:

¹ For greater clarity, a decision or action of a panel of Discipline Committee binds the Discipline Committee as a whole.

- (a) any Saturday or Sunday,
- (b) New Year's Day,
- (c) Good Friday,
- (d) Victoria Day,
- (e) Canada Day,
- (f) Civic Holiday,
- (g) Labour Day,
- (h) Thanksgiving Day,
- (i) Christmas Day,
- (j) Boxing Day,
- (k) any special holiday proclaimed by the Governor General or the Lieutenant Governor, and
- (l) any other day designated by the College as a holiday, and where New Year's Day, Canada Day, Christmas Day or Boxing Day falls on a Saturday or Sunday, the day designated by the College as a holiday;

"independent legal counsel" means the lawyer or lawyers appointed by the Discipline Committee to provide advice in accordance with section 44 of the Codeⁱ;

"Investigations and Resolutions Department" means the employee or employees of the College who are specifically assigned the duty of providing administrative assistance to the Discipline Committee;

"lawyer" means a member of the Law Society of Upper Canada;

"member" means a member of the College who is the subject of a hearing before the Discipline Committee and includes a former member;

"motion" is a request made to the Discipline Committee to make an order in a particular proceeding;

"motion participant" is a party and any other person who would be affected by the order sought;

"order" means any decision made by the Discipline Committee or the chair and includes a direction given by the Discipline Committee or the chair;

"party" means a party under section 41 of the Codeⁱⁱ;

“proceeding” means any step in the discipline hearing process and includes a motion, a prehearing conference, and the hearing itself;

“prosecutor” means the lawyer or lawyers appointed by the College to prosecute allegations against one or more members before the Discipline Committee;

“service” means effective delivery of documentation to any person, or to the persons’ lawyer or agent.

“vulnerable witness” means a witness who, in the opinion of the Discipline Committee, will have difficulty testifying, or will have difficulty testifying in the presence of a party, for appropriate reasons related to age, handicap, illness, trauma, emotional state or similar cause of vulnerability.

Orders on Terms

- 1.4 When making an order under the Rules of Procedure, the Discipline Committee may impose such terms and give such directions as are just.

Application of Rules

- 1.5 The Rules of Procedure apply to all proceedings of the Discipline Committee.
- 1.5.1 The Discipline Committee may exercise any of its powers under these Rules of Procedure on its own initiative or at the request of a party or an intervenor.
- 1.5.2 The Discipline Committee may issue general or specific practice directions at any time.
- 1.5.3 A failure to comply with these Rules is an irregularity and does not render a proceeding or a step, document, or order in a proceeding a nullity.
- 1.5.4 The Discipline Committee may, only where it is necessary in the interest of justice, dispense with compliance of any Rule at any time.
- 1.5.5 A time prescribed by the Rules for serving, filing, or delivering a document may be extended or abridged by consent, in writing.

Computation of time

- 1.6 In the computation of time under these Rules or an order of the Discipline Committee,
- 1.6.1 Where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens; and,
- 1.6.2 Where a period of less than seven days is prescribed, holidays shall not be counted;
- 1.7 A time prescribed by these Rules or by an order of the Discipline Committee may be extended or abridged by consent of the parties in writing.

Service

1.8 Service is deemed to be effective:

1.8.1 When delivered:

1.8.1.1 by personal service on the date of service;

1.8.1.2 by regular, registered, or certified mail on the fifth day after the day of mailing to the last known address of the person to be served;

1.8.1.3 by fax on the same day as the transmission to the last known fax number of the person to be served;

1.8.1.4 by e-mail on the same day as the transmission to the last known e-mail address of the person to be served;

1.8.1.5 by courier, including Priority Post, to the last known address of the person to be served, on the second full day after the document was given to the courier by the party serving; or

1.8.1.6 as directed by the Discipline Committee.

1.8.2 Except in the case of personal service, the person to be served may subsequently establish that he or she, acting in good faith and through absence, accident, illness or cause beyond his or her control, failed to receive the notice in question at all, or did not receive it until a later date;

1.8.3 Documents delivered after 5:00 p.m. shall be deemed to have been served on the next day that is not a holiday;

1.8.4 Documents may be filed with the Discipline Committee by any of the methods of delivery set out in Rule 1.8.1, together with an Affidavit indicating who has been served with the documents and what documents have been so served;

1.8.5 A person who serves or files a document shall include with it a statement of the person's address, telephone number and facsimile number, if appropriate, and the name of the proceeding to which the document relates.

Rule 2: METHODS OF WAIVING A RULE

- 2.1** Any provision of these Rules may be waived on the consent of the parties and, where relevant, motion participants, or upon an order of the Discipline Committee.
- 2.2** A party or motion participant requesting that a provision of these Rules be waived who does not have the consent of the parties and, where relevant, motion participants, shall bring a motion to the Discipline Committee permitting the waiver.
- 2.3** A motion under this rule may be made after a failure to comply with these Rules has occurred.
- 2.4** The Discipline Committee may refuse to grant a motion for a waiver from a provision of these Rules where a party or motion participant does not act on a timely basis.
- 2.5** The Discipline Committee may waive a provision of these Rules on its own initiative if it first gives notice to the parties or motion participants and provides an opportunity for submissions to be made in writing.

Rule 3: PERMISSION TO RESIGN

- 3.1** Where a member requests permission to resign from membership in the College, the member consents to the Discipline Committee disposing of the proceeding without hearing evidence.
- 3.2** Where a member requests permission to resign, the Discipline Committee may dispose of the proceeding in accordance with subrule 3.1 after hearing any submission from the parties.
- 3.3** This rule does not apply where subsection 51(5) of the Codeⁱⁱⁱ applies.

Rule 4: INITIATING MOTIONS

- 4.1** Where it appears to the chair that the number and nature of the motions brought in a proceeding are not leading to the most just and expeditious disposition of the matter, the chair may direct that no further motions be brought before the commencement of the hearing unless the prior permission of the chair is obtained.

Rule 5: MOTIONS

- 5.1** All procedural or interlocutory issues shall be raised in a motion as soon as possible and shall be heard on a day before the day upon which the hearing is scheduled to commence unless the nature of the motion requires that it be heard during the hearing itself.
- 5.2** Except when a motion is argued at a scheduled hearing date, the party bringing the motion shall file a copy of the Notice of Motion and obtain an appointment for the return date of the motion from the chair.
- 5.3** A moving party shall give written notice of a motion, and deliver materials in support of the motion, to all other parties, and file that notice and materials with the Discipline Committee, at least fifteen days in advance of the date that the motion is to be heard.
- 5.4** The other motion participants shall deliver their materials at least nine days in advance of the date that the motion is to be heard.
- 5.5** Where a motion participant intends to rely on a factum, written submission(s) or book(s) of authorities, such material must be delivered, in the case of the moving party, at least seven days in advance, and in the case of a responding party, at least three days in advance of the date that the motion is to be heard.
- 5.6** A motion in a proceeding may be heard by a panel appointed to hear the motion, and consisting of one or more members of the Discipline Committee, as assigned by the chair.
- 5.7** A motion in a proceeding may be heard and determined by way of:
- 5.7.1 oral argument;
- 5.7.2 a conference telephone call or video teleconference or otherwise electronically on an appointment obtained from the member or members of the hearing panel, or from the chair; or
- 5.7.3 in writing without the attendance of the parties.
- 5.8** If the hearing panel's decision regarding a motion is not made on the record during the hearing, then the hearing panel that decides the motion shall issue a formal written order, signed by the chair of that hearing panel, and when the hearing commences then that order shall be entered as an exhibit to the hearing, and the order, together with a brief summary of the motion background, will be read into the record.

Rule 6: MOTIONS FOR ADJOURNMENT

6.1 If the hearing has not commenced,

6.1.1 the party seeking the adjournment shall make the request by letter to the chair filed with the Investigations and Resolutions Department and copied to the responding party, setting out the request, the reasons for the request, the nature of the allegations against the member, available dates for the hearing to be rescheduled as confirmed with the Investigations and Resolutions Department, and the position of the responding party; and

6.1.2 the chair may dispose of a request in writing that is on consent or unopposed, or may hear and dispose of a request for adjournment that is opposed after hearing the parties by electronic means, or may direct a hearing of the request by motion before the hearing panel;

6.2 If the hearing has commenced,

6.2.1 and the adjournment is on consent or unopposed, the party seeking the adjournment may make the request by letter to the chair of the hearing panel, filed with the Investigations and Resolutions Department and copied to the responding party, setting out the request, the reasons for the request, the nature of the allegations against the member, available dates for the hearing to be rescheduled as confirmed with the Investigations and Resolutions Department, and the position of the responding party.

The chair of the hearing panel may dispose of the request in writing or direct a hearing of it by electronic means or otherwise;

6.2.2 and the adjournment is opposed, it shall proceed by way of notice of motion with supporting material pursuant to Rule 5, and shall be heard and determined by the hearing panel, unless otherwise agreed.

Rule 7: EVIDENCE ON MOTIONS

- 7.1** Evidence on a motion shall be given by Affidavit unless the Discipline Committee directs that it be given in some other form or unless otherwise provided by law.
- 7.2** All Affidavits used on a motion shall:
 - 7.2.1** be confined to the statement of facts within the personal knowledge of the affiant, except that the Affidavit may contain statements of the affiant's information and belief, if the source of the information and the fact of the belief are specified in the Affidavit; and
 - 7.2.2** be signed by the affiant and sworn or affirmed before a person authorized to administer oaths or affirmations, which person shall also mark all exhibits as such to the Affidavit.

Rule 8: TIME LIMITS ON ORAL SUBMISSIONS AT MOTIONS

- 8.1** No motion participant shall take more than one hour, including a reply, to make oral submissions on a motion without the prior permission of the Discipline Committee.

Rule 9: NOTICE OF CONSTITUTIONAL QUESTIONS:

- 9.1** Where a party intends to raise a question concerning the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a rule of common law, or where a party claims a remedy under section 24(1) of the *Canadian Charter of Rights and Freedoms*^{iv}, notice of a constitutional question shall be served on the other parties and the Discipline Committee as soon as the circumstances requiring notice become known and, in any event, at least fifteen days before the question is to be argued.
- 9.2** Where the Attorneys General of Canada and Ontario are entitled to notice, he or she is entitled to adduce evidence and make submissions to the Discipline Committee regarding the constitutional question.

Rule 10: PREHEARING CONFERENCES

- 10.1** The Discipline Committee expects the parties to attend, and may specifically direct the parties to attend, one or more Prehearing Conferences, and the parties may on their own initiative consent and arrange to attend at one or more Prehearing Conferences, for the purposes of considering any matter including:
- 10.1.1 issues relating to disclosure and the exchange of information;
 - 10.1.2 identification and clarification of issues;
 - 10.1.3 identification of preliminary motions to be raised;
 - 10.1.4 procedural issues, including the dates by which any steps in the proceeding are to be taken or begun, the estimated duration of the hearing, and the date that the hearing will begin;
 - 10.1.5 identification of intervenors and the scope of their participation at the hearing;
 - 10.1.6 identification of facts, documents or evidence that may be agreed upon;
 - 10.1.7 the possibility of settlement of any and all issues between the parties;
 - 10.1.8 any other matter that may assist in the just and expeditious disposition of the proceeding.
- 10.2** Notice of Prehearing Conference shall be served on the parties at least fifteen days before the Prehearing Conference is scheduled to take place.
- 10.3** The Notice of a Prehearing Conference shall include:
- 10.3.1 the date, time, place and purpose of the Prehearing Conference;
 - 10.3.2 notice that the parties are required to exchange or file documents or a Prehearing Memorandum as prescribed in paragraph 10.7 of these Rules and, if so, the issues to be addressed and the day when they are required;
 - 10.3.3 whether the parties are required to attend in person, and
 - 10.3.3.1 if so, that they may be represented by counsel or agent; or
 - 10.3.3.2 if not, that their counsel or agent must be given authority to make agreements and undertakings on their behalf respecting the matters to be addressed at the Prehearing Conference;
 - 10.3.4 advice that the member of the Discipline Committee presiding at the Prehearing Conference may make orders with respect to the conduct of the proceeding which will be binding on all parties.
- 10.4** The chair may designate a member of the Discipline Committee or any other person to preside at the Prehearing Conference.

- 10.5** The person who presides at a Prehearing Conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding.
- 10.6** The person who presides at a Prehearing Conference, and any member of the Discipline Committee who observes at the Prehearing Conference at which the parties attempt to settle all issues, shall not form part of the panel of the Discipline Committee at the hearing of the proceedings, unless the parties consent.
- 10.7** Seven days prior to the Prehearing Conference, the parties shall serve on the other party, and file with the person presiding at the Prehearing Conference the Prehearing Memorandum in writing outlining the following:
- 10.7.1 summary of the party's case, including factual contentions;
 - 10.7.2 list of issues to be determined at the hearing;
 - 10.7.3 list of outstanding motions to be brought at the hearing;
 - 10.7.4 disclosure issues;
 - 10.7.5 identity of experts and acknowledgement that expert reports have been served;
 - 10.7.6 possibility of settlement;
 - 10.7.7 confirmation of readiness for the hearing.
- 10.8** A Prehearing Conference may be held in person, in writing, or electronically by telephone conference call or via the Internet, with the consent of the parties and the person who presides at the Prehearing Conference.
- 10.9** A Prehearing Conference shall be held in the absence of the public unless the Discipline Committee directs that it be open to the public.
- 10.10** At the Prehearing Conference the person designated to preside at the Prehearing Conference may meet with each party separately to encourage consensus.
- 10.11** Any discussion of settlement at a Prehearing Conference and all statements made by the parties regarding settlement are made without prejudice and shall not be communicated to the hearing panel.
- 10.12** Orders, agreements and undertakings made at a Prehearing Conference may be recorded in a memorandum prepared by or under the direction of the person presiding at the Prehearing Conference.
- 10.13** A Copy of the memorandum referred to in paragraph 10.12 above may be provided to the parties.

Rule 11: DISCLOSURE

- 11.1** A party to a hearing shall disclose to the other parties by ten days before the hearing, the existence of every document and thing that the party will refer to or give in evidence at the hearing.
- 11.2** Each party to a hearing shall, if requested:
- 11.2.1** make available for inspection by the other party by ten days before a hearing all documents that the party will produce or enter as evidence at the hearing;
 - 11.2.2** deliver to each of the other parties by ten days before the hearing copies of all documents that the party will produce or enter as exhibits at the hearing;
- 11.3** If a party fails to comply with the provisions of section 11.3, the party may not refer to the document or thing or introduce the document or thing in evidence at the hearing without the consent of the Discipline Committee, which may be on such terms and conditions as the Discipline Committee considers just.
- 11.4** A party to a hearing shall provide by ten days before the hearing to the other parties witness statements signed by witnesses to be called by that party, or for any witness where the statement does not exist, a statement of the evidence that the witness will give at the hearing.
- 11.5** A witness statement or statement of evidence that the witness is to give shall contain:
- 11.5.1** the substance of the evidence of the witness;
 - 11.5.2** a list of documents, if any, the witness will refer to; and
 - 11.5.3** the witness's name and address, or if the witness's address is not provided, the name of the person through whom the witness can be contacted.
- 11.6** If a party fails to provide a witness statement or a statement of evidence a witness will give in accordance with the provisions of section 11.5, the party may not call the person a witness without the consent of the Discipline Committee, which may be on such terms and conditions as the Discipline Committee considers just.
- 11.7** A party may not call a witness to testify to matters not disclosed in the witness statement without the consent of the Discipline Committee which may be on such terms and conditions as the Discipline Committee considers just.

Rule 12: PRODUCTION FROM THIRD PARTIES

- 12.1** A summons sought on behalf of a member for the production of documents that are not in the College's possession shall not require the production of any documents before the commencement of the hearing.
- 12.2** A motion relating to the production of documents from third parties by summons as described in Rule 12.1 shall not be heard until the commencement of the hearing.
- 12.3** A Notice of Motion relating to the production of documents as described in Rule 12.1 shall be provided to the person possessing the documents and to any other person having a significant interest, including privacy interest, in the documents.

Rule 13: EARLY HEARING

- 13.1** A party may bring a motion for an order directing an expedited hearing.
- 13.2** The Discipline Committee may order that a hearing be expedited, where it believes it is appropriate, and may also direct that any pre-hearing conference be expedited accordingly.

Rule 14: ELECTRONIC HEARINGS

- 14.1** The Discipline Committee may hold an electronic hearing in a proceeding.
- 14.1.1 The Discipline Committee shall not hold an electronic hearing if a party satisfies the Discipline Committee that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.
- 14.1.2 Subrule 14.1.1 does not apply if the only purpose of the hearing is to deal with procedural matters.
- 14.1.3 In an electronic hearing, all the parties and the members of the Discipline Committee in the hearing must be able to hear one another and any witness throughout the hearing.
- 14.1.4 The Discipline Committee may, in a proceeding, hold any combination of written, electronic and oral hearings.

Rule 15: EFFECT OF NON-ATTENDANCE AT HEARING AFTER DUE NOTICE

- 15.1** Where notice of an oral hearing has been given to a party and the party does not attend at the hearing, the Discipline Committee may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.
- 15.2** Where notice of a written hearing has been given to a party and the party does not participate in the hearing in accordance with the notice, the Discipline Committee may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.
- 15.3** Where notice of an electronic hearing has been given to a party and the party does not participate in the hearing in accordance with the notice, the Discipline Committee may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

Rule 16: NON-PARTY PARTICIPATION

- 16.1** A person who is not a party who wishes to participate in the hearing shall bring a motion in accordance with these Rules and the chair shall assign the hearing panel to hear the motion.
- 16.2** The notice of motion shall set out the extent of participation the person proposes to have in the hearing and shall be accompanied by the evidence upon which the person intends to rely in support of the motion and written submissions in support of the motion.
- 16.3** If the Discipline Committee allows the person to participate in the hearing, the person shall comply with the Rules as much as is practical unless to do so would be inconsistent with the Discipline Committee's determination of the extent of the person's participation in the hearing.
- 16.4** If the Discipline Committee allows the person to participate in the hearing, the other parties shall apply the Rules to the person as much as is practical unless to do so would be inconsistent with the Discipline Committee's determination of the extent of the person's participation in the hearing.

Rule 17: RIGHT TO REPRESENTATION

17.1 A party to a proceeding may be represented by a representative.

Rule 18: EXAMINATION OF WITNESSES

18.1 A party to a proceeding may, at an oral or electronic hearing,

18.1.1 call and examine witnesses and present evidence and submissions; and

18.1.2 conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair discussion of all matters relevant to the issues in the proceeding.

Rule 19: RIGHTS OF WITNESSES TO REPRESENTATION

- 19.1** A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the Discipline Committee.
- 19.2** Where an oral hearing is closed to the public, the witness's representative is not entitled to be present except when that witness is giving evidence.

Rule 20: PROCEDURE DURING THE HEARING

Vulnerable Witnesses

- 20.1** The Discipline Committee may order that a support person be permitted to be present and to sit near a vulnerable witness while testifying and may issue directions regarding the conduct of the support person during the testimony of the witness;
- 20.2** The Discipline Committee may order that a vulnerable witness testify outside the hearing room or behind a screen or other device that would allow the vulnerable witness not to see the member if the Discipline Committee is of the opinion that the exclusion is necessary to obtain a full and candid account of the matter;
- 20.3** The Discipline Committee shall not make an order under Rule 20.2 unless arrangements are made for the member, the Discipline Committee, and counsel for the parties to watch the testimony of the vulnerable witness by means of closed-circuit television or otherwise and the member is permitted to communicate with counsel while watching the testimony;
- 20.4** The Discipline Committee may order that a member not personally conduct the cross-examination of a vulnerable witness if the Discipline Committee is of the opinion that the order is necessary to obtain a full and candid account of the vulnerable witness's testimony;
- 20.5** Where the Discipline Committee makes an order under Rule 20.4, it may appoint counsel for the purpose of conducting the cross-examination.

Oral and Written Argument

- 20.6** The Discipline Committee may place reasonable limits on the length of oral submissions.
- 20.7** The Discipline Committee may, after hearing submissions, order the parties to submit written arguments on some or all of the issues at the hearing and may give directions as to the form and timing of such written arguments.

Access to Hearing Record by the Public

- 20.8** If a member of the public wishes to have access to all or part of the record of the Discipline Committee other than the notice of hearing or the transcript of the evidence, he or she shall bring a motion before the Discipline Committee upon notice to the parties, and such motion shall be made, considered, and decided in writing by the chair or by a panel of the Discipline Committee appointed by the chair, without an oral hearing.

Filing of Draft Order

- 20.9** Where a party seeks an order from the Discipline Committee before or at a hearing, that party shall file, at the time of its submissions or orally or in writing, a draft order with terms as are appropriate, in the form that the party is requesting the Discipline Committee to adopt and sign.

20.10 Where the order sought is on consent, the approval of the other party to a draft order shall be expressed in writing at the time of filing the draft order.

Expert Witnesses

20.11 The party calling an expert to give evidence at a hearing shall tender as an exhibit a report prepared and signed by the expert, containing his or her finding and the facts upon which they are based;

20.12 Each party shall inform any prospective expert witness that it is the duty of an expert to assist the Discipline Committee on matters within his or her expertise and that this duty overrides any obligation to the person from whom he or she has received instructions or payment. The expert shall be required, in an expert report, to certify that he or she is aware of and understands this duty;

20.13 Where the Discipline Committee hears testimony of an expert witness, it may admit as an exhibit at the hearing the report of the expert witness.

Rule 21: GIVING NOTICE OF FINAL DECISION

21.1 In addition to the methods described in section 18 of the Statutory Powers Procedure Act^v, the Discipline Committee may send each party a copy of its final decision or order, including the reasons if any have been given,

21.1.1 by courier;

21.1.2 by personal service;

21.1.3 by facsimile; or

21.1.4 by electronic mail.

21.2 If a copy is sent by courier, it shall be sent to the most recent address known to the College and shall be deemed to be received by the party on the day the copy is signed for by a person at that address. If a copy is sent by facsimile or by electronic mail, it shall be sent to the most recent facsimile number or e-mail address known to the College and shall be deemed to be received by the party at the end of the day the facsimile or e-mail was sent.

Rule 22: COSTS

Costs for Non-Compliance with Rules

- 22.1** Where the Discipline Committee is entitled to order the payment of costs or expenses by a party, the Discipline Committee may consider the failure of a party to comply with these Rules.

Costs for a Late Request for Adjournment

- 22.2** In this Rule, a late request for adjournment means an adjournment that is requested within 10 business days of the date scheduled for the commencement of the hearing;

22.2.1 A late request for an adjournment may result in costs or costs and expenses being awarded, as a term of granting the adjournment, against the party who is responsible for the late request for the adjournment, if the conduct of the party has been unreasonable, frivolous, or vexatious or if the party has acted in bad faith;

22.2.2 In determining the amount of costs or costs and expenses to award against the party responsible for a late request for an adjournment, the Discipline Committee shall take into account the following factors, among other relevant considerations:

22.2.2.1 whether the lateness of the adjournment request could have been avoided;

22.2.2.2 the number of days on which the hearing has been scheduled to proceed;

22.2.2.3 the amount of the costs or costs and expenses, as the case may be, borne by the party seeking costs or costs and expenses as a result of the late request for adjournment;

22.2.2.4 the conduct or course of conduct by the party and whether this has been unreasonable, frivolous or vexatious or the party has acted in bad faith.

Costs Against the College

- 22.3** Where the member seeks costs against the College pursuant to section 53 of the Code^{vi}, the Discipline Committee may direct that the issue be dealt with by a motion conducted separately from the hearing with any necessary modifications.

Costs Against the Member

- 22.4** Where the College seeks costs against the member pursuant to section 53.1 of the Code^{vii}, the Discipline Committee may direct that the issue be dealt with by a motion conducted separately from the hearing with any necessary modifications.

Procedure for Requesting Costs

- 22.5** A party requesting an order for costs or expenses shall, where practicable, deliver a detailed written explanation of the basis upon which the costs or expenses requested are calculated;

- 22.5.1 Where the request for costs or expenses includes disbursements or out-of-pocket expenses, these may be proved by an Affidavit attaching a copy of any invoice or receipt;
- 22.5.2 The Discipline Committee may direct that the amount of costs and expenses be calculated at a motion conducted separately from the hearing with any necessary modifications.

Rule 23: REINSTATEMENT APPLICATIONS

Initiating Reinstatement Applications

- 23.1** This Rule applies to applications for reinstatement made under sections 72 and 73 of the Code^{viii}:
- 23.1.1 A person making an application for reinstatement shall deliver a notice of the application specifying the order sought, the grounds of the application, the documentary and oral evidence that the member will introduce, and the anticipated length of the hearing;
 - 23.1.2 A person making an application for reinstatement shall comply with the policies and practices of the College including those related to credentialing requirements and re-entering practice;
 - 23.1.3 Unless the Discipline Committee directs otherwise, the person making an application for reinstatement shall deliver copies of the record of the original hearing and the record of any previous applications for reinstatement, copies of the transcript of the original hearing and any previous applications for reinstatement (whether or not the transcript has previously been ordered), and copies of any document the person will introduce;
 - 23.1.4 The Investigations and Resolutions Department shall not schedule a reinstatement application for a hearing until the person complies with subrules 23.1.1, 23.1.2 and 23.1.3;
 - 23.1.5 When a reinstatement application has been scheduled, the Discipline Committee shall serve a notice of hearing on the parties.

Rule 24: Correction of Errors

- 24.1** The Discipline Committee may at any time correct a typographical error, formatting error, error of calculation, or similar error made in its decision or order.
- 24.2** The correction shall take place within a reasonable time after the decision or order is made.

Rule 25: MOTION TO VARY ORDERS

- 25.1** A party may make a motion to the Discipline Committee to have an order varied, suspended, or cancelled on the grounds of facts arising or discovered after the order was made. Such motion does not act as a stay of the original order.

Rule 26: APPLICATION TO REMOVE REGISTER INFORMATION FROM PUBLIC ACCESS

- 26.1** An application under subsection 23(11)(c) of the Code^{ix}, for removal from public access of information contained in the Register under subsection 23(2)7 of the Code^x, shall be made by motion under Rule 5, and the motion record shall include the decision and reasons of the Discipline Committee and any supporting material to be relied upon.
- 26.2** If such application is made by way of joint submission or is unopposed, it may be heard and determined in writing by a panel of the Discipline Committee.

Notes

ⁱ Section 44 of the Code provides as follows:

44. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice.

ⁱⁱ Section 41 of the Code provides as follows:

41. The College and the member against whom allegations have been made are parties to a hearing.

ⁱⁱⁱ Subsection 51(5) of the Code provides as follows:

51(5) If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

1. Reprimand the member.
 2. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - i. sexual intercourse,
 - ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. masturbation of the member by, or in the presence of, the patient,
 - iv. masturbation of the patient by the member,
 - v. encouragement of the patient by the member to masturbate in the presence of the member.
- 1993, c. 37, s. 14 (3).

^{iv} Section 24(1) of the Canadian Charter of Rights and Freedom provides as follows:

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

^v Section 18 of the Statutory Powers and Procedure Act provides as follows:

18. (1) The tribunal shall send each party who participated in the proceeding, or the party's representative, a copy of its final decision or order, including the reasons if any have been given,

- (a) by regular lettermail;
- (b) by electronic transmission;
- (c) by telephone transmission of a facsimile; or
- (d) by some other method that allows proof of receipt, if the tribunal's rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

Use of mail

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

Use of electronic or telephone transmission

(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

Use of other method

(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal's rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

Failure to receive copy

(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party's control, receive the copy until a later date than the deemed day of receipt, subsection (2), (3) or (4), as the case may be, does not apply.

^{vi} Section 53 of the Code provides as follows:

53. If a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the member's legal costs.

^{vii} Section 53.1 of the Code provides as follows:

53.1 In an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct or finds to be incompetent to pay all or part of the following costs and expenses:

1. The College's legal costs and expenses.
2. The College's costs and expenses incurred in investigating the matter.
3. The College's costs and expenses incurred in conducting the hearing.

^{viii} Sections 72 and 73 of the Code provide as follows:

Applications for reinstatement

72. (1) A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed. 1991, c. 18, Sched. 2, s. 72 (1).

Time of application

(2) An application under subsection (1) shall not be made earlier than,
(a) one year after the date on which the certificate of registration was revoked or suspended; or
(b) six months after a decision has been made in a previous application under subsection (1). 2007, c. 10, Sched. M, s. 52.

Time of application, sexual abuse cases

(3) An application under subsection (1), in relation to a revocation for sexual abuse of a patient, shall not be made earlier than,
(a) five years after the date on which the certificate of registration was revoked; or
(b) six months after a decision has been made in a previous application under subsection (1). 2007, c. 10, Sched. M, s. 52.

Notice where complainant

(4) The Registrar shall give the complainant in the original proceeding notice of an application under subsection (1). 2007, c. 10, Sched. M, s. 52.

Reasons for reinstatement

(5) The person making the application under subsection (1) shall provide reasons why the certificate should be issued or the suspension be removed. 2007, c. 10, Sched. M, s. 52.

Referral to Committee

73. (1) The Registrar shall refer the application, if the revocation or suspension was on the grounds of,
(a) professional misconduct or incompetence, to the Discipline Committee; or
(b) incapacity, to the Fitness to Practise Committee.

Hearings

(2) The chair of a committee to which an application is referred shall select a panel from among the members of the committee to hold a hearing of the application.

Procedural provisions

(3) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Discipline Committee:

1. Subsection 22 (4) (findings of fact).
2. Subsection 38 (2) (composition).
3. Subsection 38 (3) (composition).
4. Subsection 38 (5) (quorum).
5. Section 43 (no communication by panel members).
6. Section 44 (legal advice).
7. Section 45 (hearings open).
8. Section 47 (sexual misconduct witnesses).
9. Section 48 (transcript of hearings).
10. Section 50 (members of panel who participate).
11. Section 55 (release of evidence).

Idem

(4) The following provisions apply with necessary modifications to a hearing of an application by a panel of the Fitness to Practise Committee:

1. Subsection 22 (4) (findings of fact).
2. Section 43 (no communication by panel members).
3. Section 44 (legal advice).
4. Section 47 (sexual misconduct witnesses).
5. Section 48 (transcript of hearings).
6. Section 50 (members of panel who participate).
7. Section 55 (release of evidence).
8. Subsection 64 (2) (composition).
9. Subsection 64 (3) (quorum).
10. Section 68 (hearings closed).

Order

(5) A panel may, after a hearing, make an order doing any one or more of the following:
1. Directing the Registrar to issue a certificate of registration to the applicant.
2. Directing the Registrar to remove the suspension of the applicant's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the applicant's certificate of registration. 1991, c. 18, Sched. 2, s. 73 (1-5).

Limitation for sexual abuse cases

(5.1) A panel may not make an order directing that the Registrar issue a new certificate of registration to an applicant whose certificate had been revoked for sexual abuse of a patient unless the prescribed conditions are met. 1993, c. 37, s. 19.

Decision

(6) A panel that held a hearing of an application shall give its decision and reasons in writing to the applicant and the Registrar. 1991, c. 18, Sched. 2, s. 73 (6).

^{ix} Subsection 23 (11) (c) of the Code provides as follows:

23(11) The Registrar shall refuse to disclose to an individual or to post on the College's website information required by paragraph 7 of subsection (2) if,

...

(c) the member has made an application to the relevant committee for the removal of the information from public access because the information is no longer relevant to the member's suitability to practise, and if,

(i) the relevant committee believes that a refusal to disclose the information outweighs the desirability of public access to the information in the interest of any person affected or the public interest, and

(ii) the relevant committee has directed the Registrar to remove the information from public access;

^x Subsection 23(2)7 of the Code provides as follows:

23(2) The register shall contain the following:

...

7. The result, including a synopsis of the decision, of every disciplinary and incapacity proceeding, unless a panel of the relevant committee makes no finding with regard to the proceeding.

APPENDIX 1

ONTARIO COLLEGE OF PHARMACISTS BY-LAW NO.2

Article 8.9 Duties of the Discipline Committee. The Discipline Committee shall:

8.9.1 perform such functions as are assigned to it by statute or regulation;

8.9.2 recommend to the Council, through the Executive Committee, changes to applicable statutes, regulations, By-Laws policies and practices;

8.9.3 submit an annual report to the Council in accordance with the Code;
and

8.9.4 provide guidance to the Council on matters concerning discipline.

APPENDIX 2

Statutory Authority

Sections 36 to 56 (inclusive) of the Health Professions Procedural Code, being Schedule 2 to the Regulated Health Professions Act, deal with the Discipline process and are set out in full below:

Inquiries, Complaints and Reports Committee referral

36. (1) The Inquiries, Complaints and Reports Committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee. 2007, c. 10, Sched. M, s. 33 (1).

Allegations of sexual abuse

(2) In deciding whether or not to refer an allegation of the sexual abuse of a patient to the Discipline Committee, the Inquiries, Complaints and Reports Committee shall take into account any opinion, required under subsection 85.3 (5), as to whether or not the member who is the subject of the report is likely to sexually abuse patients in the future. 1993, c. 37, s. 9; 2007, c. 10, Sched. M, s. 33 (2).

Interim suspension

37. (1) The Inquiries, Complaints and Reports Committee may, subject to subsection (5), make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's certificate of registration if,

- (a) an allegation is referred to the Discipline Committee; and
- (b) it is of the opinion that the conduct of the member exposes or is likely to expose his or her patients to harm or injury. 1991, c. 18, Sched. 2, s. 37 (1); 2007, c. 10, Sched. M, s. 34 (1).

Procedure following interim suspension

(2) If an order is made under subsection (1) by the Inquiries, Complaints and Reports Committee in relation to a matter referred to the Discipline Committee,

- (a) the College shall prosecute the matter expeditiously; and
- (b) the Discipline Committee shall give precedence to the matter. 1991, c. 18, Sched. 2, s. 37 (2); 2007, c. 10, Sched. M, s. 34 (2).

Duration of order

(3) An order under subsection (1) continues in force until the matter is disposed of by a panel of the Discipline Committee. 1991, c. 18, Sched. 2, s. 37 (3).

Panel's order

(4) In a matter in which an order under subsection (1) was made, an order of a panel of the Discipline Committee directing the Registrar to revoke, suspend or impose conditions on a member's certificate takes effect immediately despite any appeal. 1991, c. 18, Sched. 2, s. 37 (4).

Restrictions on orders

- (5) No order shall be made under subsection (1) unless the member has been given,
- (a) notice of the Committee's intention to make the order; and

(b) at least 14 days to make written submissions to the Committee. 2007, c. 10, Sched. M, s. 34 (3).

Extraordinary action to protect public

(6) Despite subsection (5), an order may be made under subsection (1) without notice to the member, subject to the right of the member to make submissions while the suspension or the terms, conditions or limitations are in place, if the Committee is of the opinion, on reasonable and probable grounds, that the conduct of the member exposes or is likely to expose his or her patients to harm or injury and urgent intervention is needed. 2007, c. 10, Sched. M, s. 34 (3).

Panel for discipline hearing

38. (1) The chair of the Discipline Committee shall select a panel from among the members of the Committee to hold a hearing of allegations of a member's professional misconduct or incompetence referred to the Committee by the Inquiries, Complaints and Reports Committee. 1991, c. 18, Sched. 2, s. 38 (1); 2007, c. 10, Sched. M, s. 35.

Composition

(2) A panel shall be composed of at least three and no more than five persons, at least two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council. 1991, c. 18, Sched. 2, s. 38 (2).

Idem

(3) At least one of the members of a panel shall be both a member of the College and a member of the Council. 1991, c. 18, Sched. 2, s. 38 (3).

Exclusion from panel

(4) No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing. 1991, c. 18, Sched. 2, s. 38 (4).

Quorum

(5) Three members of a panel, at least one of whom must be a member who was appointed to the Council by the Lieutenant Governor in Council, constitute a quorum. 1991, c. 18, Sched. 2, s. 38 (5).

Panel members deemed to continue

39. A member of a panel who ceases to be a member of the Discipline Committee after a hearing of a matter has commenced before the panel shall be deemed, for the purposes of dealing with that matter, to remain a member of the panel until the final disposition of the matter. 1991, c. 18, Sched. 2, s. 39.

Amendment of notice of hearing

40. A panel may at any time permit a notice of hearing of allegations against a member to be amended to correct errors or omissions of a minor or clerical nature if it is of the opinion that it is just and equitable to do so and the panel may make any order it considers necessary to prevent prejudice to the member. 1991, c. 18, Sched. 2, s. 40.

Parties

41. The College and the member against whom allegations have been made are parties to a hearing. 1991, c. 18, Sched. 2, s. 41.

Non-party participation in hearings

41.1 (1) A panel, on application by a person who is not a party, may allow the person to participate in a hearing if,

- (a) the good character, propriety of conduct or competence of the person is an issue at the hearing; or
- (b) the participation of the person, would, in the opinion of the panel, be of assistance to the panel. 1993, c. 37, s. 10; 2007, c. 10, Sched. M, s. 36.

Extent of participation

(2) The panel shall determine the extent to which a person who is allowed to participate may do so and, without limiting the generality of this, the panel may allow the person to make oral or written submissions, to lead evidence and to cross examine witnesses. 1993, c. 37, s. 10.

Disclosure of evidence

42. (1) Evidence against a member is not admissible at a hearing of allegations against the member unless the member is given, at least ten days before the hearing,

- (a) in the case of written or documentary evidence, an opportunity to examine the evidence;
- (b) in the case of evidence of an expert, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence; or
- (c) in the case of evidence of a witness, the identity of the witness. 1991, c. 18, Sched. 2, s. 42 (1); 1993, c. 37, s. 11.

Exception

(2) A panel may, in its discretion, allow the introduction of evidence that is inadmissible under subsection (1) and may make directions it considers necessary to ensure that the member is not prejudiced. 1991, c. 18, Sched. 2, s. 42 (2).

Disclosure of evidence

42.1 (1) Evidence of an expert led by a person other than the College is not admissible unless the person gives the College, at least ten days before the hearing, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence. 1993, c. 37, s. 12.

Exception

(2) A panel may, in its discretion, allow the introduction of evidence that is inadmissible under this section and may make directions it considers necessary to ensure that the College is not prejudiced. 1998, c. 18, Sched. G, s. 17.

No communication by panel members

43. No member of a panel holding a hearing shall communicate outside the hearing, in relation to the subject-matter of the hearing, with a party or the party's representative unless the other party has been given notice of the subject-matter of the communication and an opportunity to be present during the communication. 1991, c. 18, Sched. 2, s. 43.

Legal advice

44. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice. 1991, c. 18, Sched. 2, s. 44.

Hearings public

45. (1) A hearing shall, subject to subsection (2), be open to the public. 1991, c. 18,

Sched. 2, s. 45 (1).

Exclusion of public

(2) The panel may make an order that the public be excluded from a hearing or any part of it if the panel is satisfied that,

- (a) matters involving public security may be disclosed;
- (b) financial or personal or other matters may be disclosed at the hearing of such a nature that the harm created by disclosure would outweigh the desirability of adhering to the principle that hearings be open to the public;
- (c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or
- (d) the safety of a person may be jeopardized. 1991, c. 18, Sched. 2, s. 45 (2); 2007, c. 10, Sched. M, s. 37.

Orders preventing public disclosure

(3) In situations in which the panel may make an order that the public be excluded from a hearing, it may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters. 1991, c. 18, Sched. 2, s. 45 (3).

Public information may be disclosed

(4) No order shall be made under subsection (3) that prevents the publication of anything that is contained in the register and available to the public. 1991, c. 18, Sched. 2, s. 45 (4).

Exclusion of public

(5) The panel may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2). 1991, c. 18, Sched. 2, s. 45 (5).

Orders with respect to matters in submissions

(6) The panel may make any order necessary to prevent the public disclosure of matters disclosed in the submissions relating to any motion described in subsection (5), including prohibiting the publication or broadcasting of those matters. 1991, c. 18, Sched. 2, s. 45 (6).

Reasons for order, etc.

(7) The panel shall ensure that any order it makes under this section and its reasons are available to the public in writing. 1991, c. 18, Sched. 2, s. 45 (7).

Reconsidering of order

(8) The panel may reconsider an order made under subsection (2) or (3) at the request of any person or on its own motion. 1991, c. 18, Sched. 2, s. 45 (8).

Exception to closed hearings

46. If a panel makes an order under subsection 45 (2) wholly or partly in relation to a person, the panel may allow the person and his or her personal representative to attend the hearing and may, in its discretion, allow another person to attend if, in the opinion of the panel, to do so does not undermine the reasons for making the order and does not cause undue prejudice to a party. 2007, c. 10, Sched. M, s. 38.

Sexual misconduct witnesses

47. (1) A panel shall, on the request of a witness whose testimony is in relation to allegations of a member's misconduct of a sexual nature involving the witness, make an order

that no person shall publish the identity of the witness or any information that could disclose the identity of the witness. 1991, c. 18, Sched. 2, s. 47.

Interpretation

(2) In subsection (1),

“allegations of a member’s misconduct of a sexual nature” include, but are not limited to, allegations that the member sexually abused the witness when the witness was a patient of the member. 1993, c. 37, s. 13.

Transcript of hearings

48. (1) The panel holding a hearing shall ensure that,

- (a) the oral evidence is recorded;
- (b) copies of the transcript of the hearing are available to a party on the party’s request at the party’s expense; and
- (c) copies of the transcript of any part of the hearing that is not the subject of an order prohibiting publication are available to any person at that person’s expense.

Transcripts filed with court

(2) If a transcript of a part of a hearing that is the subject of an order prohibiting publication is filed with a court in respect of proceedings, only the court and the parties to the proceedings may examine it unless the court orders otherwise. 1991, c. 18, Sched. 2, s. 48.

Admissibility of evidence

49. Despite the *Statutory Powers Procedure Act*, nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on evidence admitted before it. 1991, c. 18, Sched. 2, s. 49.

Members of panel who participate

50. Only the members of a panel who were present throughout a hearing shall participate in the panel’s decision. 1991, c. 18, Sched. 2, s. 50.

Professional misconduct

51. (1) A panel shall find that a member has committed an act of professional misconduct if,

- (a) the member has been found guilty of an offence that is relevant to the member’s suitability to practise;
- (b) the governing body of a health profession in a jurisdiction other than Ontario has found that the member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the regulations;
- (b.0.1) the member has failed to co-operate with the Quality Assurance Committee or any assessor appointed by that committee;
- (b.1) the member has sexually abused a patient; or
- (c) the member has committed an act of professional misconduct as defined in the regulations. 1991, c. 18, Sched. 2, s. 51 (1); 1993, c. 37, s. 14 (1); 2007, c. 10, Sched. M, s. 39 (1).

Orders

(2) If a panel finds a member has committed an act of professional misconduct, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration for a specified period of time.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified or indefinite period of time.
4. Requiring the member to appear before the panel to be reprimanded.
5. Requiring the member to pay a fine of not more than \$35,000 to the Minister of Finance.
- 5.1 If the act of professional misconduct was the sexual abuse of a patient, requiring the member to reimburse the College for funding provided for that patient under the program required under section 85.7.
- 5.2 If the panel makes an order under paragraph 5.1, requiring the member to post security acceptable to the College to guarantee the payment of any amounts the member may be required to reimburse under the order under paragraph 5.1. 1991, c. 18, Sched. 2, s. 51 (2); 1993, c. 37, s. 14 (2).

Idem

(3) In making an order under paragraph 2 or 3 of subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration. 1991, c. 18, Sched. 2, s. 51 (3).

Suspension of order

(4) A panel may suspend the effect of all or part of an order made under subsection (2) for a specified period and on specified conditions. 1991, c. 18, Sched. 2, s. 51 (4); 2007, c. 10, Sched. M, s. 39 (2).

Orders relating to sexual abuse

(5) If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

1. Reprimand the member.
2. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - i. sexual intercourse,
 - ii. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. masturbation of the member by, or in the presence of, the patient,
 - iv. masturbation of the patient by the member,
 - v. encouragement of the patient by the member to masturbate in the presence of the member. 1993, c. 37, s. 14 (3).

Statement re impact of sexual abuse

(6) Before making an order under subsection (5), the panel shall consider any written statement that has been filed, and any oral statement that has been made to the panel, describing the impact of the sexual abuse on the patient. 1993, c. 37, s. 14 (3).

Same

(7) The statement may be made by the patient or by his or her representative. 1993, c. 37, s. 14 (3).

Same

(8) The panel shall not consider the statement unless a finding of professional misconduct has been made. 1993, c. 37, s. 14 (3).

Notice to member

(9) When a written statement is filed, the panel shall, as soon as possible, have copies of it provided to the member, to his or her counsel and to the College. 1993, c. 37, s. 14 (3).

Incompetence

52. (1) A panel shall find a member to be incompetent if the member's professional care of a patient displayed a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that the member is unfit to continue to practise or that the member's practice should be restricted. 1991, c. 18, Sched. 2, s. 52 (1); 2007, c. 10, Sched. M, s. 40 (1).

Order

(2) If a panel finds a member is incompetent, it may make an order doing any one or more of the following:

1. Directing the Registrar to revoke the member's certificate of registration.
2. Directing the Registrar to suspend the member's certificate of registration.
3. Directing the Registrar to impose specified terms, conditions and limitations on the member's certificate of registration for a specified period of time or indefinite period of time. 1991, c. 18, Sched. 2, s. 52 (2); 2007, c. 10, Sched. M, s. 40 (2).

Idem

(3) In making an order under paragraph 2 or 3 of subsection (2), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a member's certificate of registration. 1991, c. 18, Sched. 2, s. 52 (3); 2007, c. 10, Sched. M, s. 40 (3).

Costs if proceedings unwarranted

53. If a panel is of the opinion that the commencement of proceedings was unwarranted, it may make an order requiring the College to pay all or part of the member's legal costs. 1991, c. 18, Sched. 2, s. 53.

College's costs

53.1 In an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct or finds to be incompetent to pay all or part of the following costs and expenses:

1. The College's legal costs and expenses.
2. The College's costs and expenses incurred in investigating the matter.
3. The College's costs and expenses incurred in conducting the hearing. 1993, c. 37, s. 15.

Decision to complainant

54. A panel shall give its decision and reasons in writing to the parties and, if the matter had been referred to the Discipline Committee by the Inquiries, Complaints and Reports Committee, to the complainant in the matter. 1991, c. 18, Sched. 2, s. 54; 2007, c. 10, Sched. M, s. 41.

Release of evidence

55. The Discipline Committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined. 1991, c. 18, Sched. 2, s. 55.

Publication of decisions

56. (1) The College shall publish a panel's decision and its reasons, or a summary of its reasons, in its annual report and may publish the decision and reasons or summary in any other publication of the College.

Publication of member's name

(2) In publishing a decision and reasons or summary under subsection (1), the College shall publish the name of the member who was the subject of the proceeding if,

- (a) the results of the proceeding may be obtained by a person from the register; or
- (b) the member requests the publication of his or her name.

Withholding of member's name

(3) The College shall not publish the member's name unless it is required to do so under subsection (2). 1991, c. 18, Sched. 2, s. 56.

Excerpts Regarding the Authority of the Screening Committees to Refer to Discipline Committee

From the Health Professions Procedural Code:

What a panel may do

26. (1) A panel, after investigating a complaint or considering a report, considering the submissions of the member and making reasonable efforts to consider all records and documents it considers relevant to the complaint or the report, may do any one or more of the following:

1. Refer a specified allegation of the member's professional misconduct or incompetence to the Discipline Committee if the allegation is related to the complaint or the report.

...

Inquiries, Complaints and Reports Committee referral

36. (1) The Inquiries, Complaints and Reports Committee may refer a specified allegation of a member's professional misconduct or incompetence to the Discipline Committee. 2007, c. 10, Sched. M, s. 33 (1).

...

From the Drug and Pharmacies Regulation Act:

Revocation of certificate and other disciplinary measures

140. (1) Where the Accreditation Committee has reason to believe that a pharmacy or its operation fails to conform to the requirements of this Act and the regulations or to any term, condition or limitation to which its certificate of accreditation is subject, or that an act of proprietary misconduct has been committed, the Committee may refer the person who has been issued a certificate of accreditation, a designated manager of the pharmacy operated by the person who has been issued a certificate of accreditation or the directors of a corporation which has been issued a certificate of accreditation to the Discipline Committee for a hearing and determination. 2007, c. 10, Sched. L, s. 5 (1).

...

APPENDIX 3

[Français](#)

Statutory Powers Procedure Act

R.S.O. 1990, CHAPTER S.22

Consolidation Period: From July 25, 2007 to the [e-Laws currency date](#).

Last amendment: 2006, c. 21, Sched. F, s. 136 (1).

[SKIP TABLE OF CONTENTS](#)

CONTENTS

1.	Interpretation
2.	Liberal construction of Act and rules
3.	Application of Act
4.	Waiver
4.1	Disposition without hearing
4.2	Panels, certain matters
4.2.1	Panel of one, reduced panel
4.3	Expiry of term
4.4	Incapacity of member
4.5	Decision not to process commencement of proceeding
4.6	Dismissal of proceeding without hearing
4.7	Classifying proceedings
4.8	Alternative dispute resolution
4.9	Mediators, etc.: not compellable, notes not evidence
5.	Parties
5.1	Written hearings
5.2	Electronic hearings
5.2.1	Different kinds of hearings in one proceeding
5.3	Pre-hearing conferences
5.4	Disclosure
6.	Notice of hearing
7.	Effect of non-attendance at hearing after due notice
8.	Where character, etc., of a party is in issue
9.	Hearings to be public; maintenance of order
9.1	Proceedings involving similar questions
10.	Right to representation
10.1	Examination of witnesses
11.	Rights of witnesses to representation
12.	Summonses
13.	Contempt proceedings
14.	Protection for witnesses
15.	Evidence
15.1	Use of previously admitted evidence
15.2	Witness panels
16.	Notice of facts and opinions
16.1	Interim decisions and orders
16.2	Time frames
17.	Decision; interest
17.1	Costs
18.	Notice of decision
19.	Enforcement of orders
20.	Record of proceeding
21.	Adjournments
21.1	Correction of errors
21.2	Power to review
22.	Administration of oaths

23.	Powers re control of proceedings
24.	Notice, etc.
25.	Appeal operates as stay, exception
25.0.1	Control of process
25.1	Rules
26.	Regulations
27.	Rules, etc., available to public
28.	Substantial compliance
32.	Conflict

Interpretation

1. (1) In this Act,

“electronic hearing” means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another; (“audience électronique”)

“hearing” means a hearing in any proceeding; (“audience”)

“licence” includes any permit, certificate, approval, registration or similar form of permission required by law; (“autorisation”)

“municipality” has the same meaning as in the *Municipal Affairs Act*; (“municipalité”)

“oral hearing” means a hearing at which the parties or their representatives attend before the tribunal in person; (“audience orale”)

“proceeding” means a proceeding to which this Act applies; (“instance”)

“representative” means, in respect of a proceeding to which this Act applies, a person authorized under the *Law Society Act* to represent a person in that proceeding; (“représentant”)

“statutory power of decision” means a power or right, conferred by or under a statute, to make a decision deciding or prescribing,

(a) the legal rights, powers, privileges, immunities, duties or liabilities of any person or party, or

(b) the eligibility of any person or party to receive, or to the continuation of, a benefit or licence, whether the person is legally entitled thereto or not; (“compétence légale de décision”)

“tribunal” means one or more persons, whether or not incorporated and however described, upon which a statutory power of decision is conferred by or under a statute; (“tribunal”)

“written hearing” means a hearing held by means of the exchange of documents, whether in written form or by electronic means. (“audience écrite”) R.S.O. 1990, c. S.22, s. 1 (1); 1994, c. 27, s. 56 (1-3); 2002, c. 17, Sched. F, Table; 2006, c. 21, Sched. C, s. 134 (1, 2).

Meaning of “person” extended

(2) A municipality, an unincorporated association of employers, a trade union or council of trade unions who may be a party to a proceeding in the exercise of a statutory power of decision under the statute conferring the power shall be deemed to be a person for the purpose of any provision of this Act or of any rule made under this Act that applies to parties. R.S.O. 1990, c. S.22, s. 1 (2).

Liberal construction of Act and rules

2. This Act, and any rule made by a tribunal under subsection 17.1 (4) or section 25.1,

shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits. 1999, c. 12, Sched. B, s. 16 (1); 2006, c. 19, Sched. B, s. 21 (1).

Application of Act

3. (1) Subject to subsection (2), this Act applies to a proceeding by a tribunal in the exercise of a statutory power of decision conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or to afford to the parties to the proceeding an opportunity for a hearing before making a decision. R.S.O. 1990, c. S.22, s. 3 (1); 1994, c. 27, s. 56 (5).

Where Act does not apply

- (2)** This Act does not apply to a proceeding,
- (a) before the Assembly or any committee of the Assembly;
 - (b) in or before,
 - (i) the Court of Appeal,
 - (ii) the Superior Court of Justice,
 - (iii) the Ontario Court of Justice,
 - (iv) the Family Court of the Superior Court of Justice,
 - (v) the Small Claims Court, or
 - (vi) a justice of the peace;
 - (c) to which the Rules of Civil Procedure apply;
 - (d) before an arbitrator to which the *Arbitrations Act* or the *Labour Relations Act* applies;
 - (e) at a coroner's inquest;
 - (f) of a commission appointed under the *Public Inquiries Act*;
 - (g) of one or more persons required to make an investigation and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or
 - (h) of a tribunal empowered to make regulations, rules or by-laws in so far as its power to make regulations, rules or by-laws is concerned. R.S.O. 1990, c. S.22, s. 3 (2); 1994, c. 27, s. 56 (6); 2006, c. 19, Sched. C, s. 1 (1, 2, 4).

Waiver

Waiver of procedural requirement

4.(1) Any procedural requirement of this Act, or of another Act or a regulation that applies to a proceeding, may be waived with the consent of the parties and the tribunal. 1997, c. 23, s. 13 (1).

Same, rules

(2) Any provision of a tribunal's rules made under section 25.1 may be waived in accordance with the rules. 1994, c. 27, s. 56 (7).

Disposition without hearing

4.1 If the parties consent, a proceeding may be disposed of by a decision of the tribunal given without a hearing, unless another Act or a regulation that applies to the proceeding provides otherwise. 1997, c. 23, s. 13 (2).

Panels, certain matters

4.2(1) A procedural or interlocutory matter in a proceeding may be heard and determined by a panel consisting of one or more members of the tribunal, as assigned by the chair of the tribunal. 1994, c. 27, s. 56 (8).

Assignments

(2) In assigning members of the tribunal to a panel, the chair shall take into consideration any requirement imposed by another Act or a regulation that applies to the proceeding that the tribunal be representative of specific interests. 1997, c. 23, s. 13 (3).

Decision of panel

(3) The decision of a majority of the members of a panel, or their unanimous decision in the case of a two-member panel, is the tribunal's decision. 1994, c. 27, s. 56 (8).

Panel of one, reduced panel

Panel of one

4.2.1(1) The chair of a tribunal may decide that a proceeding be heard by a panel of one person and assign the person to hear the proceeding unless there is a statutory requirement in another Act that the proceeding be heard by a panel of more than one person.

Reduction in number of panel members

(2) Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent. 1999, c. 12, Sched. B, s. 16 (2).

Expiry of term

4.3 If the term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. 1997, c. 23, s. 13 (4).

Incapacity of member

4.4(1) If a member of a tribunal who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining member or members may complete the hearing and give a decision. 1994, c. 27, s. 56 (9).

Other Acts and regulations

(2) Subsection (1) does not apply if another Act or a regulation specifically deals with the issue of what takes place in the circumstances described in subsection (1). 1997, c. 23, s. 13 (5).

Decision not to process commencement of proceeding

4.5(1) Subject to subsection (3), upon receiving documents relating to the commencement of a proceeding, a tribunal or its administrative staff may decide not to process the documents relating to the commencement of the proceeding if,

- (a) the documents are incomplete;
- (b) the documents are received after the time required for commencing the proceeding has elapsed;

- (c) the fee required for commencing the proceeding is not paid; or
- (d) there is some other technical defect in the commencement of the proceeding.

Notice

(2) A tribunal or its administrative staff shall give the party who commences a proceeding notice of its decision under subsection (1) and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents.

Rules under s. 25.1

(3) A tribunal or its administrative staff shall not make a decision under subsection (1) unless the tribunal has made rules under section 25.1 respecting the making of such decisions and those rules shall set out,

- (a) any of the grounds referred to in subsection (1) upon which the tribunal or its administrative staff may decide not to process the documents relating to the commencement of a proceeding; and
- (b) the requirements for the processing of the documents to be resumed.

Continuance of provisions in other statutes

(4) Despite section 32, nothing in this section shall prevent a tribunal or its administrative staff from deciding not to process documents relating to the commencement of a proceeding on grounds that differ from those referred to in subsection (1) or without complying with subsection (2) or (3) if the tribunal or its staff does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Dismissal of proceeding without hearing

4.6(1) Subject to subsections (5) and (6), a tribunal may dismiss a proceeding without a hearing if,

- (a) the proceeding is frivolous, vexatious or is commenced in bad faith;
- (b) the proceeding relates to matters that are outside the jurisdiction of the tribunal; or
- (c) some aspect of the statutory requirements for bringing the proceeding has not been met.

Notice

(2) Before dismissing a proceeding under this section, a tribunal shall give notice of its intention to dismiss the proceeding to,

- (a) all parties to the proceeding if the proceeding is being dismissed for reasons referred to in clause (1) (b); or
- (b) the party who commences the proceeding if the proceeding is being dismissed for any other reason.

Same

(3) The notice of intention to dismiss a proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Right to make submissions

(4) A party who receives a notice under subsection (2) may make written submissions to the tribunal with respect to the dismissal within the time specified in the notice.

Dismissal

(5) A tribunal shall not dismiss a proceeding under this section until it has given notice under subsection (2) and considered any submissions made under subsection (4).

Rules

(6) A tribunal shall not dismiss a proceeding under this section unless it has made rules under section 25.1 respecting the early dismissal of proceedings and those rules shall include,

- (a) any of the grounds referred to in subsection (1) upon which a proceeding may be dismissed;
- (b) the right of the parties who are entitled to receive notice under subsection (2) to make submissions with respect to the dismissal; and
- (c) the time within which the submissions must be made.

Continuance of provisions in other statutes

(7) Despite section 32, nothing in this section shall prevent a tribunal from dismissing a proceeding on grounds other than those referred to in subsection (1) or without complying with subsections (2) to (6) if the tribunal dismisses the proceeding in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Classifying proceedings

4.7 A tribunal may make rules under section 25.1 classifying the types of proceedings that come before it and setting guidelines as to the procedural steps or processes (such as preliminary motions, pre-hearing conferences, alternative dispute resolution mechanisms, expedited hearings) that apply to each type of proceeding and the circumstances in which other procedures may apply. 1999, c. 12, Sched. B, s. 16 (3).

Alternative dispute resolution

4.8(1) A tribunal may direct the parties to a proceeding to participate in an alternative dispute resolution mechanism for the purposes of resolving the proceeding or an issue arising in the proceeding if,

- (a) it has made rules under section 25.1 respecting the use of alternative dispute resolution mechanisms; and
- (b) all parties consent to participating in the alternative dispute resolution mechanism.

Definition

(2) In this section,

“alternative dispute resolution mechanism” includes mediation, conciliation, negotiation or any other means of facilitating the resolution of issues in dispute.

Rules

(3) A rule under section 25.1 respecting the use of alternative dispute resolution mechanisms shall include procedural guidelines to deal with the following:

1. The circumstances in which a settlement achieved by means of an alternative dispute resolution mechanism must be reviewed and approved by the tribunal.
2. Any requirement, statutory or otherwise, that there be an order by the tribunal.

Mandatory alternative dispute resolution

(4) A rule under subsection (3) may provide that participation in an alternative dispute resolution mechanism is mandatory or that it is mandatory in certain specified circumstances.

Person appointed to mediate, etc.

(5) A rule under subsection (3) may provide that a person appointed to mediate, conciliate, negotiate or help resolve a matter by means of an alternative dispute resolution mechanism be a member of the tribunal or a person independent of the tribunal. However, a member of the tribunal who is so appointed with respect to a matter in a proceeding shall not subsequently hear the matter if it comes before the tribunal unless the parties consent.

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from directing parties to a proceeding to participate in an alternative dispute resolution mechanism even though the requirements of subsections (1) to (5) have not been met if the tribunal does so in accordance with the provisions of an Act that are in force on the day this section comes into force. 1999, c. 12, Sched. B, s. 16 (3).

Mediators, etc.: not compellable, notes not evidence

Mediators, etc., not compellable

4.9(1) No person employed as a mediator, conciliator or negotiator or otherwise appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism shall be compelled to give testimony or produce documents in a proceeding before the tribunal or in a civil proceeding with respect to matters that come to his or her knowledge in the course of exercising his or her duties under this or any other Act.

Evidence in civil proceedings

(2) No notes or records kept by a mediator, conciliator or negotiator or by any other person appointed to facilitate the resolution of a matter before a tribunal by means of an alternative dispute resolution mechanism under this or any other Act are admissible in a civil proceeding. 1999, c. 12, Sched. B, s. 16 (3).

Parties

5. The parties to a proceeding shall be the persons specified as parties by or under the statute under which the proceeding arises or, if not so specified, persons entitled by law to be parties to the proceeding. R.S.O. 1990, c. S.22, s. 5.

Written hearings

5.1(1) A tribunal whose rules made under section 25.1 deal with written hearings may hold a written hearing in a proceeding. 1997, c. 23, s. 13 (6).

Exception

(2) The tribunal shall not hold a written hearing if a party satisfies the tribunal that there is good reason for not doing so.

Same

(2.1) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters. 1999, c. 12, Sched. B, s. 16 (4).

Documents

(3) In a written hearing, all the parties are entitled to receive every document that the tribunal receives in the proceeding. 1994, c. 27, s. 56 (10).

Electronic hearings

5.2(1) A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding. 1997, c. 23, s. 13 (7).

Exception

(2) The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

Same

(3) Subsection (2) does not apply if the only purpose of the hearing is to deal with procedural matters.

Participants to be able to hear one another

(4) In an electronic hearing, all the parties and the members of the tribunal participating in the hearing must be able to hear one another and any witnesses throughout the hearing. 1994, c. 27, s. 56 (10).

Different kinds of hearings in one proceeding

5.2.1 A tribunal may, in a proceeding, hold any combination of written, electronic and oral hearings. 1997, c. 23, s. 13 (8).

Pre-hearing conferences

5.3(1) If the tribunal's rules made under section 25.1 deal with pre-hearing conferences, the tribunal may direct the parties to participate in a pre-hearing conference to consider,

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts or evidence that may be agreed upon;
- (d) the dates by which any steps in the proceeding are to be taken or begun;
- (e) the estimated duration of the hearing; and
- (f) any other matter that may assist in the just and most expeditious disposition of the proceeding. 1994, c. 27, s. 56 (11); 1997, c. 23, s. 13 (9).

Other Acts and regulations

(1.1) The tribunal's power to direct the parties to participate in a pre-hearing conference is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (10).

Who presides

(2) The chair of the tribunal may designate a member of the tribunal or any other person to preside at the pre-hearing conference.

Orders

(3) A member who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, including adding parties.

Disqualification

(4) A member who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing of the proceeding unless the parties consent. 1994, c. 27, s. 56 (11).

Application of s. 5.2

(5)Section 5.2 applies to a pre-hearing conference, with necessary modifications. 1997, c. 23, s. 13 (10).

Disclosure

5.4(1)If the tribunal's rules made under section 25.1 deal with disclosure, the tribunal may, at any stage of the proceeding before all hearings are complete, make orders for,

- (a) the exchange of documents;
- (b) the oral or written examination of a party;
- (c) the exchange of witness statements and reports of expert witnesses;
- (d) the provision of particulars;
- (e) any other form of disclosure. 1994, c. 27, s. 56 (12); 1997, c. 23, s. 13 (11).

Other Acts and regulations

(1.1)The tribunal's power to make orders for disclosure is subject to any other Act or regulation that applies to the proceeding. 1997, c. 23, s. 13 (12).

Exception, privileged information

(2)Subsection (1) does not authorize the making of an order requiring disclosure of privileged information. 1994, c. 27, s. 56 (12).

Notice of hearing

6.(1)The parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. R.S.O. 1990, c. S.22, s. 6 (1).

Statutory authority

(2)A notice of a hearing shall include a reference to the statutory authority under which the hearing will be held.

Oral hearing

(3)A notice of an oral hearing shall include,

- (a) a statement of the time, place and purpose of the hearing; and
- (b) a statement that if the party notified does not attend at the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Written hearing

(4)A notice of a written hearing shall include,

- (a) a statement of the date and purpose of the hearing, and details about the manner in which the hearing will be held;
- (b) a statement that the hearing shall not be held as a written hearing if the party satisfies the tribunal that there is good reason for not holding a written hearing (in which case the tribunal is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;
- (c) a statement that if the party notified neither acts under clause (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13); 1997, c. 23, s. 13 (13); 1999, c. 12, Sched. B,

s. 16 (5).

Electronic hearing

(5) A notice of an electronic hearing shall include,

- (a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;
- (b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;
- (c) if clause (b) does not apply, a statement that the party notified may, by satisfying the tribunal that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the tribunal to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and
- (d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (13).

Effect of non-attendance at hearing after due notice

7.(1) Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding. R.S.O. 1990, c. S.22, s. 7; 1994, c. 27, s. 56 (14).

Same, written hearings

(2) Where notice of a written hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (4) (b) nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

Same, electronic hearings

(3) Where notice of an electronic hearing has been given to a party to a proceeding in accordance with this Act and the party neither acts under clause 6 (5) (c), if applicable, nor participates in the hearing in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding. 1994, c. 27, s. 56 (15).

Where character, etc., of a party is in issue

8. Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto. R.S.O. 1990, c. S.22, s. 8.

Hearings to be public; maintenance of order

Hearings to be public, exceptions

9.(1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

- (a) matters involving public security may be disclosed; or
- (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding

disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public. R.S.O. 1990, c. S.22, s. 9 (1); 1994, c. 27, s. 56 (16).

Written hearings

(1.1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted, unless the tribunal is of the opinion that clause (1) (a) or (b) applies. 1994, c. 27, s. 56 (17).

Electronic hearings

(1.2) An electronic hearing shall be open to the public unless the tribunal is of the opinion that,

- (a) it is not practical to hold the hearing in a manner that is open to the public; or
- (b) clause (1) (a) or (b) applies. 1997, c. 23, s. 13 (14).

Maintenance of order at hearings

(2) A tribunal may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing, and, if any person disobeys or fails to comply with any such order or direction, the tribunal or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. R.S.O. 1990, c. S.22, s. 9 (2); 1994, c. 27, s. 56 (18).

Proceedings involving similar questions

9.1(1) If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

- (a) combine the proceedings or any part of them, with the consent of the parties;
- (b) hear the proceedings at the same time, with the consent of the parties;
- (c) hear the proceedings one immediately after the other; or
- (d) stay one or more of the proceedings until after the determination of another one of them.

Exception

(2) Subsection (1) does not apply to proceedings to which the *Consolidated Hearings Act* applies. 1994, c. 27, s. 56 (19).

Same

(3) Clauses (1) (a) and (b) do not apply to a proceeding if,

- (a) any other Act or regulation that applies to the proceeding requires that it be heard in private;
- (b) the tribunal is of the opinion that clause 9 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 13 (15).

Conflict, consent requirements

(4) The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

Use of same evidence

(5) If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

Right to representation

10. A party to a proceeding may be represented by a representative. 2006, c. 21, Sched. C, s. 134 (3).

Examination of witnesses

10.1 A party to a proceeding may, at an oral or electronic hearing,

- (a) call and examine witnesses and present evidence and submissions; and
- (b) conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (20).

Rights of witnesses to representation

11. (1) A witness at an oral or electronic hearing is entitled to be advised by a representative as to his or her rights, but such representative may take no other part in the hearing without leave of the tribunal. 2006, c. 21, Sched. C, s. 134 (4).

Idem

(2) Where an oral hearing is closed to the public, the witness's representative is not entitled to be present except when that witness is giving evidence. R.S.O. 1990, c. S.22, s. 11 (2); 1994, c. 27, s. 56 (22); 2006, c. 21, Sched. C, s. 134 (5).

Summonses

12. (1) A tribunal may require any person, including a party, by summons,

- (a) to give evidence on oath or affirmation at an oral or electronic hearing; and
- (b) to produce in evidence at an oral or electronic hearing documents and things specified by the tribunal,

relevant to the subject-matter of the proceeding and admissible at a hearing. R.S.O. 1990, c. S.22, s. 12 (1); 1994, c. 27, s. 56 (23).

Form and service of summons

(2) A summons issued under subsection (1) shall be in the prescribed form (in English or French) and,

- (a) where the tribunal consists of one person, shall be signed by him or her;
- (b) where the tribunal consists of more than one person, shall be signed by the chair of the tribunal or in such other manner as documents on behalf of the tribunal may be signed under the statute constituting the tribunal. 1994, c. 27, s. 56 (24).

Same

(3) The summons shall be served personally on the person summoned. 1994, c. 27, s. 56 (24).

Fees and allowances

(3.1) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. 1994, c. 27, s. 56 (24); 2006, c. 19, Sched. C, s. 1 (1).

Bench warrant

(4) A judge of the Superior Court of Justice may issue a warrant against a person if the judge is satisfied that,

- (a) a summons was served on the person under this section;
- (b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and
- (c) the person's attendance or participation is material to the ends of justice. 1994, c. 27, s. 56 (25); 2006, c. 19, Sched. C, s. 1 (1).

Same

(4.1) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the tribunal forthwith and,

- (a) detained in custody as the judge may order until the person's presence as a witness is no longer required; or
- (b) in the judge's discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence. 1994, c. 27, s. 56 (25).

Proof of service

(5) Service of a summons may be proved by affidavit in an application to have a warrant issued under subsection (4). 1994, c. 27, s. 56 (26).

Certificate of facts

(6) Where an application to have a warrant issued is made on behalf of a tribunal, the person constituting the tribunal or, if the tribunal consists of more than one person, the chair of the tribunal may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts. 1994, c. 27, s. 56 (26).

Same

(7) Where the application is made by a party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party's affidavit. 1994, c. 27, s. 56 (26).

Contempt proceedings

13.(1) Where any person without lawful excuse,

- (a) on being duly summoned under section 12 as a witness at a hearing makes default in attending at the hearing; or
- (b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing, refuses to take an oath or to make an affirmation legally required by the tribunal to be taken or made, or to produce any document or thing in his or her power or control legally required by the tribunal to be produced by

him or her or to answer any question to which the tribunal may legally require an answer;
or

(c) does any other thing that would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

the tribunal may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court. R.S.O. 1990, c. S.22, s. 13; 1994, c. 27, s. 56 (27).

Same

(2) Subsection (1) also applies to a person who,

(a) having objected under clause 6 (4) (b) to a hearing being held as a written hearing, fails without lawful excuse to participate in the oral or electronic hearing of the matter; or

(b) being a party, fails without lawful excuse to attend a pre-hearing conference when so directed by the tribunal. 1997, c. 23, s. 13 (17).

Protection for witnesses

14.(1) A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1990, c. S.22, s. 14 (1); 1994, c. 27, s. 56 (28).

(2) Repealed: 1994, c. 27, s. 56 (29).

Evidence

What is admissible in evidence at a hearing

15.(1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

What is inadmissible in evidence at a hearing

(2) Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceeding arises or any other statute.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

Copies

(4) Where a tribunal is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

Photocopies

(5) Where a document has been filed in evidence at a hearing, the tribunal may, or the person producing it or entitled to it may with the leave of the tribunal, cause the document to be photocopied and the tribunal may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the tribunal.

Certified copy admissible in evidence

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the tribunal, is admissible in evidence in proceedings in which the document is admissible as evidence of the document. R.S.O. 1990, c. S.22, s. 15.

Use of previously admitted evidence

15.1(1) The tribunal may treat previously admitted evidence as if it had been admitted in a proceeding before the tribunal, if the parties to the proceeding consent. 1994, c. 27, s. 56 (30).

Definition

(2) In subsection (1),

“previously admitted evidence” means evidence that was admitted, before the hearing of the proceeding referred to in that subsection, in any other proceeding before a court or tribunal, whether in or outside Ontario.

Additional power

(3) This power conferred by this section is in addition to the tribunal’s power to admit evidence under section 15. 1997, c. 23, s. 13 (18).

Witness panels

15.2 A tribunal may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard. 1994, c. 27, s. 56 (31).

Notice of facts and opinions

16. A tribunal may, in making its decision in any proceeding,

(a) take notice of facts that may be judicially noticed; and

(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge. R.S.O. 1990, c. S.22, s. 16.

Interim decisions and orders

16.1(1) A tribunal may make interim decisions and orders.

Conditions

(2) A tribunal may impose conditions on an interim decision or order.

Reasons

(3) An interim decision or order need not be accompanied by reasons. 1994, c. 27, s. 56 (32).

Time frames

16.2 A tribunal shall establish guidelines setting out the usual time frame for completing proceedings that come before the tribunal and for completing the procedural steps within those proceedings. 1999, c. 12, Sched. B, s. 16 (6).

Decision; interest

Decision

17.(1) A tribunal shall give its final decision and order, if any, in any proceeding in writing and shall give reasons in writing therefor if requested by a party. R.S.O. 1990, c. S.22, s. 17; 1993, c. 27, Sched.

Interest

(2) A tribunal that makes an order for the payment of money shall set out in the order the principal sum, and if interest is payable, the rate of interest and the date from which it is to be calculated. 1994, c. 27, s. 56 (33).

Costs

17.1 (1) Subject to subsection (2), a tribunal may, in the circumstances set out in rules made under subsection (4), order a party to pay all or part of another party's costs in a proceeding. 2006, c. 19, Sched. B, s. 21 (2).

Exception

- (2) A tribunal shall not make an order to pay costs under this section unless,
- (a) the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or a party has acted in bad faith; and
 - (b) the tribunal has made rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Amount of costs

(3) The amount of the costs ordered under this section shall be determined in accordance with the rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Rules

- (4) A tribunal may make rules with respect to,
- (a) the ordering of costs;
 - (b) the circumstances in which costs may be ordered; and
 - (c) the amount of costs or the manner in which the amount of costs is to be determined. 2006, c. 19, Sched. B, s. 21 (2).

Same

(5) Subsections 25.1 (3), (4), (5) and (6) apply with respect to rules made under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Continuance of provisions in other statutes

(6) Despite section 32, nothing in this section shall prevent a tribunal from ordering a party to pay all or part of another party's costs in a proceeding in circumstances other than those set out in, and without complying with, subsections (1) to (3) if the tribunal makes the order in

accordance with the provisions of an Act that are in force on February 14, 2000. 2006, c. 19, Sched. B, s. 21 (2).

Transition

(7) This section, as it read on the day before the effective date, continues to apply to proceedings commenced before the effective date. 2006, c. 19, Sched. B, s. 21 (2).

Same

(8) Rules that are made under section 25.1 before the effective date and comply with subsection (4) are deemed to be rules made under subsection (4) until the earlier of the following days:

1. The first anniversary of the effective date.
2. The day on which the tribunal makes rules under subsection (4). 2006, c. 19, Sched. B, s. 21 (2).

Definition

(9) In subsections (7) and (8),

“effective date” means the day on which section 21 of Schedule B to the *Good Government Act, 2006* comes into force. 2006, c. 19, Sched. B, s. 21 (2).

Notice of decision

18. (1) The tribunal shall send each party who participated in the proceeding, or the party’s representative, a copy of its final decision or order, including the reasons if any have been given,

- (a) by regular lettermail;
- (b) by electronic transmission;
- (c) by telephone transmission of a facsimile; or
- (d) by some other method that allows proof of receipt, if the tribunal’s rules made under section 25.1 deal with the matter. 1994, c. 27, s. 56 (34); 1997, c. 23, s. 13 (19); 2006, c. 21, Sched. C, s. 134 (6).

Use of mail

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the tribunal and shall be deemed to be received by the party on the fifth day after the day it is mailed. 1994, c. 27, s. 56 (34).

Use of electronic or telephone transmission

(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday. 1994, c. 27, s. 56 (34).

Use of other method

(4) If the copy is sent by a method referred to in clause (1) (d), the tribunal’s rules made under section 25.1 govern its deemed day of receipt. 1994, c. 27, s. 56 (34).

Failure to receive copy

(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party’s control, receive the copy until a later date than the deemed day of

receipt, subsection (2), (3) or (4), as the case may be, does not apply. 1994, c. 27, s. 56 (34).

Enforcement of orders

19. (1) A certified copy of a tribunal's decision or order in a proceeding may be filed in the Superior Court of Justice by the tribunal or by a party and on filing shall be deemed to be an order of that court and is enforceable as such. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Notice of filing

(2) A party who files an order under subsection (1) shall notify the tribunal within 10 days after the filing. 1994, c. 27, s. 56 (35).

Order for payment of money

(3) On receiving a certified copy of a tribunal's order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Superior Court of Justice. 1994, c. 27, s. 56 (35); 2006, c. 19, Sched. C, s. 1 (1).

Record of proceeding

20. A tribunal shall compile a record of any proceeding in which a hearing has been held which shall include,

- (a) any application, complaint, reference or other document, if any, by which the proceeding was commenced;
- (b) the notice of any hearing;
- (c) any interlocutory orders made by the tribunal;
- (d) all documentary evidence filed with the tribunal, subject to any limitation expressly imposed by any other Act on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the decision of the tribunal and the reasons therefor, where reasons have been given.
R.S.O. 1990, c. S.22, s. 20.

Adjournments

21. A hearing may be adjourned from time to time by a tribunal of its own motion or where it is shown to the satisfaction of the tribunal that the adjournment is required to permit an adequate hearing to be held. R.S.O. 1990, c. S.22, s. 21.

Correction of errors

21.1 A tribunal may at any time correct a typographical error, error of calculation or similar error made in its decision or order. 1994, c. 27, s. 56 (36).

Power to review

21.2(1) A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 13 (20).

Time for review

(2) The review shall take place within a reasonable time after the decision or order is made.

Conflict

(3) In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

Administration of oaths

22. A member of a tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings and the tribunal may require evidence before it to be given under oath or affirmation. R.S.O. 1990, c. S.22, s. 22.

Powers re control of proceedings

Abuse of processes

23. (1) A tribunal may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes. R.S.O. 1990, c. S.22, s. 23 (1).

Limitation on examination

(2) A tribunal may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. 1994, c. 27, s. 56 (37).

Exclusion of representatives

(3) A tribunal may exclude from a hearing anyone, other than a person licensed under the *Law Society Act*, appearing on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness, or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser. 2006, c. 21, Sched. C, s. 134 (7).

Notice, etc.

24.(1) Where a tribunal is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason, it is impracticable,

(a) to give notice of the hearing; or

(b) to send its decision and the material mentioned in section 18,

to all or any of the parties individually, the tribunal may, instead of doing so, cause reasonable notice of the hearing or of its decision to be given to such parties by public advertisement or otherwise as the tribunal may direct.

Contents of notice

(2) A notice of a decision given by a tribunal under clause (1) (b) shall inform the parties of the place where copies of the decision and the reasons therefor, if reasons were given, may be obtained. R.S.O. 1990, c. S.22, s. 24.

Appeal operates as stay, exception

25.(1) An appeal from a decision of a tribunal to a court or other appellate body operates as a stay in the matter unless,

(a) another Act or a regulation that applies to the proceeding expressly provides to the contrary; or

(b) the tribunal or the court or other appellate body orders otherwise. 1997, c. 23, s. 13 (21).

Idem

(2) An application for judicial review under the *Judicial Review Procedure Act*, or the bringing of proceedings specified in subsection 2 (1) of that Act is not an appeal within the

meaning of subsection (1). R.S.O. 1990, c. S.22, s. 25 (2).

Control of process

25.0.1 A tribunal has the power to determine its own procedures and practices and may for that purpose,

- (a) make orders with respect to the procedures and practices that apply in any particular proceeding; and
- (b) establish rules under section 25.1. 1999, c. 12, Sched. B, s. 16 (8).

Rules

25.1 (1) A tribunal may make rules governing the practice and procedure before it. 1994, c. 27, s. 56 (38).

Application

(2) The rules may be of general or particular application. 1994, c. 27, s. 56 (38).

Consistency with Acts

(3) The rules shall be consistent with this Act and with the other Acts to which they relate. 1994, c. 27, s. 56 (38).

Public access

(4) The tribunal shall make the rules available to the public in English and in French. 1994, c. 27, s. 56 (38).

Legislation Act, 2006, Part III

(5) Rules adopted under this section are not regulations as defined in Part III (Regulations) of the *Legislation Act, 2006*. 1994, c. 27, s. 56 (38); 2006, c. 21, Sched. F, s. 136 (1).

Additional power

(6) The power conferred by this section is in addition to any power to adopt rules that the tribunal may have under another Act. 1994, c. 27, s. 56 (38).

Regulations

26. The Lieutenant Governor in Council may make regulations prescribing forms for the purpose of section 12. 1994, c. 27, s. 56 (41).

Rules, etc., available to public

27. A tribunal shall make any rules or guidelines established under this or any other Act available for examination by the public. 1999, c. 12, Sched. B, s. 16 (9).

Substantial compliance

28. Substantial compliance with requirements respecting the content of forms, notices or documents under this Act or any rule made under this or any other Act is sufficient. 1999, c. 12, Sched. B, s. 16 (9).

29.-31. Repealed: 1994, c. 27, s. 56 (40).

Conflict

32. Unless it is expressly provided in any other Act that its provisions and regulations, rules or by-laws made under it apply despite anything in this Act, the provisions of this Act prevail over the provisions of such other Act and over regulations, rules or by-laws made under such other Act which conflict therewith. R.S.O. 1990, c. S.22, s. 32; 1994, c. 27, s. 56 (42).

33., 34. Repealed: 1994, c. 27, s. 56 (43).

FORMS 1, 2 Repealed: 1994, c. 27, s. 56 (44).

[Français](#)

[Back to top](#)