

**Medical Imaging and Radiation Therapy Professionals Regulations**  
**made under Section 10 of the**  
*Medical Imaging and Radiation Therapy Professionals Act*

**General**

**Citation**

**1** These regulations may be cited as the *Medical Imaging and Radiation Therapy Professionals Regulations*.

**Definitions**

**2** In these regulations,

- (a) "Act" means the *Medical Imaging and Radiation Therapy Professionals Act*;
- (b) "CAMRT" means the Canadian Association of Medical Radiation Technologists;
- (c) "CARDUP" means the Canadian Association of Registered Diagnostic Ultrasound Professionals;
- (d) "competence assessment" means a program approved by the Credentials Committee to assess the competence of applicants or members using any of the following methods or tools:
  - (i) methods such as interviewing, verification of documents, observation, reflective practice, self-assessments and testing;
  - (ii) tools such as chart audits, self-assessments, written tests and live demonstrations of competency.
- (e) "diagnostic ultrasound education program" means a diploma or degree educational program accredited for the training of diagnostic ultrasound technology by the Canadian Medical Association;
- (f) "licensure year" means a 12-month period determined by the Board;
- (g) "notice of hearing" means the notice of hearing required by Section 46 of the Act;
- (h) "registration examination" means:

- (i) for purposes of endorsing a licence in the disciplines of magnetic resonance technology, nuclear medicine technology, radiation therapy or radiological technology, the CAMRT certification examination in the discipline for which a licence is sought, or equivalent examination as determined by the Credentials Committee;
- (ii) for purposes of endorsing a licence in the discipline of diagnostic ultrasound technology, the CARDUP certification examination or equivalent examination as determined by the Credentials Committee.

### **Registration, Licensing and Membership**

#### **Information in Register**

**3** In addition to the name of each person eligible to be registered, as required by subsection 11(1) of the Act, the Register must contain all of the following information for each member:

- (a) name and location of educational institution attended;
- (b) year member graduated from educational institution;
- (c) name and date of completion of registration examination;
- (d) name and date of entry in the Register.

#### **Providing evidence to prove registration requirements**

**4** A person must satisfy the Credentials Committee that they meet the criteria for registration, for the category of licence, and for the endorsement of a particular discipline(s) in accordance with the provisions of these regulations.

#### **Criteria for registration for graduates of approved education programs**

**5 (1)** The following are the criteria for registration for a graduate of an approved education program:

- (a) successful completion of the registration examination in the discipline for which an applicant seeks a licence;
- (b) completion of the application form;
- (c) payment of the applicable registration fee;

- (d) if previously registered in another jurisdiction, current or past registration in the relevant discipline in the jurisdiction where the applicant last practiced, and a certificate of standing from each jurisdiction where the applicant practiced establishing there are no impediments to registration in the Province;
- (e) demonstration of proficiency in the English language in the manner required by the Credentials Committee;
- (f) proof that the applicant has the competence, capacity and character to safely and ethically engage in practice;
- (g) compliance with the criteria for the issuing of a practicing licence pursuant to Section 8.

(2) If the Credentials Committee is satisfied that an applicant meets all of the criteria under subsection (1), the applicant's name must be entered in the register.

### **Criteria for registration for graduates of programs other than approved education programs**

6 (1) The following are the criteria for registration for persons who did not graduate from an approved education program:

- (a) graduation from a program that qualifies the applicant to be a medical imaging technologist or radiation therapist, or equivalent in the jurisdiction of the program;
- (b) completion of any competence assessment required by the Credentials Committee;
- (c) proof that the person has met the criteria set out in Clauses 5(a) through (g).

(2) If the Credentials Committee is satisfied that an applicant meets all of the criteria under subsection (1), the applicant's name must be entered in the Register.

### **Categories of licences**

7 (1) The following are the categories of licences:

- (a) a practising licence, endorsed in a particular discipline;
- (b) a practicing licence with conditions or restrictions, endorsed in a particular discipline;

- (c) a temporary licence, with or without conditions or restrictions, endorsed in a particular discipline;
- (d) a temporary licence (graduate), in a particular discipline.

(2) The Registrar must maintain a roster for each category of licence, which must be made available to the public showing the category of licence issued to each member.

### **Criteria for a practising licence**

**8 (1)** The Registrar must record the name of a member in the practising roster and issue a practising licence to a member who meets all of the following criteria:

- (a) the member has paid the applicable licence fee;
- (b) the member applies in a form prescribed by the Credentials Committee;
- (c) the member is not currently subject to any disciplinary finding that would prohibit the practice of medical imaging technology or radiation therapy;
- (d) the member's ability to practice medical imaging technology or radiation therapy is not subject to any conditions or restrictions;
- (e) the member provides proof of professional liability insurance or other form of malpractice coverage or liability protection in such amount as approved by the Board;
- (f) the member has provided any information the Credentials Committee requires to establish that the applicant has the capacity, competence and character to safely and ethically engage in practice;
- (g) the member has provided any information the Credentials Committee requires to establish that Section 43 of the Act does not apply to the applicant;
- (h) the member has met the requirements of the professional development program approved by the Board;
- (i) the member meets one of the following:
  - (i) the member has graduated from an approved education program within the past 5 years;
  - (ii) the member has completed at least 1000 hours in practice in the 5 years immediately before the member submitted an initial application for a licence or a renewal application for a licence,

- (iii) in the 5 years immediately before the member submitted an initial or a renewal application for a licence, the member has completed a Refresher Program or a competence assessment, as selected by the Credentials Committee,
  - (iv) the member is enrolled in and attending such educational program as approved by the Credentials Committee.
- (j) compliance with subsection (2).

(2) Notwithstanding any provision of these regulations, an applicant or member who wishes to change the scope of their practice in a particular discipline to a clinical area in which the applicant or member has not practiced for a consecutive period of 5 years or more, must, prior to changing their scope of practice:

- (a) notify the Credentials Committee in writing; and
- (b) satisfy the Credentials Committee that the applicant or member has the appropriate education or training and is competent to engage in this scope of practice, or if the Credentials Committee is not satisfied, complete a competence assessment as determined by the Credentials Committee.

### **Endorsements on Practising Licence**

**9** (1) A practising licence issued pursuant to the Act and regulations, with or without conditions or restrictions, shall be endorsed by the Registrar in one or more of the disciplines in which the member is authorized to engage in practice, where the member meets the following criteria:

- (a) the member has completed an approved education program in the discipline for which the licence endorsement is sought;
- (b) the member has completed the registration examination in the discipline for which the licence endorsement is being sought; and
- (c) the member otherwise meets all of the criteria for the issuing of a practising licence as set out in Section 8.

(2) The Registrar shall maintain a record showing the discipline in which each member is authorized to practice.

### **Entitlements of members who hold a practising licence**

**10** A member who holds a practising licence and whose name is entered in the practising roster is entitled to do all of the following:

- (a) use the titles and abbreviations set out in accordance with Section 21 of the Act, where the criteria for the use of such titles and abbreviations have been met;
- (b) practise in the particular discipline(s) for which the member's licence has been endorsed and within the member's individual scope of practice;
- (c) if elected, hold office on the Board;
- (d) serve as an appointed member on any committee of the College;
- (e) receive all official College publications;
- (f) attend, participate and vote at meetings of the College.

### **Term and renewal of licence**

**11 (1)** Unless suspended, expired, revoked, or amended as a result of any restrictions or conditions imposed, a practising licence remains in effect until the end of the licensure year in which it is issued.

**(2)** The Registrar must renew a member's practising licence if the member meets all of the following:

- (a) the member applies for renewal and pays the applicable renewal fee and any penalties incurred for late application;
- (b) the member meets all criteria for entry in the applicable roster, and endorsement in a particular discipline, except any requirement to pay fees for initial entry in the roster.

### **Restrictions or conditions on a previous licence**

**12** Restrictions or conditions imposed on a member's licence that have not expired remain in effect on any new licence issued to the member.

### **Member removed from roster if licence not renewed**

**13 (1)** The Registrar must remove the name of a member who does not renew their licence in accordance with section 11 from the applicable roster effective the day after their licence expires, and the member remains non-active until their name is restored under subsection (2).

**(2)** The Registrar must restore the name of a non-active member referred to in subsection (1) to the applicable roster when the member meets the criteria for entry in the roster and pays any applicable renewal fee and any penalty.

## **Criteria for a Practising Licence With Conditions or Restrictions**

**14 (1)** The Registrar must record the name of a member in the Practising with Restrictions or Conditions Roster and issue a Practising with Restrictions or Conditions Licence to a member who meets all of the criteria set out in subsection 8(1) with the exception of subclause 8(1)(d).

**(2)** A member who holds a practising licence with conditions or restrictions and whose name is entered into the Practising with Restrictions or Conditions Roster has all of the entitlements set out in Section 10, except to the extent that the restrictions or conditions modify those entitlements.

## **Specialists' List**

**15** The Registrar shall maintain a list of members whose names appear on a Register and who have been issued a practicing licence in a particular discipline, with or without conditions or restrictions, where such members have been recognized to hold qualifications in a specialty area approved by the Board, and such members have met criteria approved by the Board.

## **Temporary licence**

**16 (1)** A temporary licence shall be endorsed with the particular discipline(s) in which the licence holder may engage in practice, when the licence holder meets such criteria as determined by the Board.

**(2)** A temporary licence with or without conditions or restrictions issued under Section 15 of the Act ceases to be valid after the earliest of all of the following dates:

- (a)** the date that a licence to practice is issued to the licence holder;
- (b)** the expiry date of the temporary licence;
- (c)** the date the temporary licence is suspended or revoked under the professional conduct process.

**(3)** The Credentials Committee may determine whether the holder of a temporary licence or a temporary licence with conditions or restrictions is authorized to use any of the protected titles set out in Section 21 of the Act.

## **Temporary licence (graduate)**

**17 (1)** The Registrar must record the name of a person in the temporary (graduate) roster and issue a temporary licence (graduate) endorsed in the relevant discipline, to a person who meets all of the following criteria:

- (a) the person has completed an approved education program in the relevant discipline, but has not passed the relevant registration examination;
  - (b) the person has applied to write the relevant registration examination;
  - (c) the person does not hold a practising licence;
  - (d) the person has paid the applicable fee and completed any necessary application form approved by the Credentials Committee.
- (2) A temporary licence (graduate) will expire on the earliest of the following:
- (a) the passing of the relevant registration examination;
  - (b) failure to access the next available sitting of the registration examination;
  - (c) failure to pass the registration examination after such number of opportunities to write the registration examination as determined by the Board.
- (3) A person who holds a temporary licence (graduate) may
- (a) practice only under the general supervision of a member licensed in the relevant discipline and in accordance with terms approved for that discipline by the Board; and
  - (b) use the designation "graduate" with any of the protected titles for the relevant discipline set out in Section 21 of the Act.
- (4) A person who holds a temporary licence (graduate) may not delegate any act of practice to another person who does not hold a relevant licence under the Act.

### **Categories of affiliation**

**18** The following are the categories of affiliation under the Act:

- (a) associate;
- (b) non-active;
- (c) life;
- (d) student;

- (e) honorary.

### **Associate members**

**19 (1)** A member is entitled to become an associate member if the member meets all of the following criteria:

- (a) the member was at one time eligible for a licence;
- (b) the member is not subject to any disciplinary finding that would prohibit them from engaging in practice;
- (c) the member is not engaging in practise in the Province;
- (d) the member has paid the applicable fee.

**(2)** An associate member is entitled to

- (a) attend and participate in, but not vote at, meetings of the College;
- (b) serve as a member on any committee of the College, but is not eligible for election to the Board; and
- (c) receive all official College publications.

### **Non-active members**

**20 (1)** A member whose name is not on any roster, and who is not an associate member, is a non-active member of the College.

**(2)** A non-active member is entitled to attend and participate in, but not vote at, meetings of the College.

### **Life members**

**21 (1)** A life membership may be granted by resolution of the Board to a member who has rendered distinguished or valuable service to the profession.

**(2)** A life member is entitled to

- (a) remain entered in the applicable roster if the member meets the prescribed criteria for the licence category; and
- (b) the same rights and privileges as an associate member under Section 19.

### **Student category**

**22 (1)** Student affiliation may be granted to any person who

- (a) is currently enrolled as a student in an approved education program; and
- (b) has paid the applicable affiliation fee.

**(2)** A person who is granted a student affiliation is a student member.

**(3)** A student member is entitled to

- (a) attend and participate in, but not vote at, meetings of the College; and
- (b) receive all official College publications.

### **Honorary category**

**23 (1)** By resolution of the Board, the Board may grant an honorary affiliation with the College to any person, other than a member, who has rendered distinguished service or valuable assistance to the profession.

**(2)** An honorary member is entitled to the same rights and privileges as an associate member under Section 19 along with any other rights and privileges the Board may grant.

### **Members' records of hours of work**

**24 (1)** A member must keep a record of the hours that the member worked in practice that covers at least the immediately preceding 4 years.

**(2)** The College may at any time conduct an audit of records kept under subsection (1) to ensure the validity of data that is recorded on applications to the College respecting the hours worked in practice.

### **Lists kept for affiliated and non-practicing members**

**25** The Registrar must keep current records of persons who are entered in any category of affiliation.

### **Waiver**

**26** Notwithstanding any of the provisions of this Act or the regulations, the Credentials Committee may waive any of the criteria for registration or a licence for either of the following reasons:

- (a) it is required by law;

- (b) it is consistent with the objects and purpose of the Association and the Credentials Committee considers it necessary.

## **Professional Conduct**

### **Preliminary investigation of complaint**

**27 (1)** On receiving or initiating a complaint, the Registrar must send copies of the complaint to both of the following:

- (a) the respondent;
- (b) the Investigative Committee.

**(2)** The Investigative Committee may appoint an investigator, who may or may not be a member of the Investigative Committee, to investigate a complaint.

**(3)** When investigating a complaint, an investigator may do one or more of the following:

- (a) request additional written or oral explanation from the complainant, the respondent or a third party;
- (b) request an interview of the complainant, the respondent or a third party;
- (c) informally resolve the complaint in the interests of the respondent, the complainant, the public and the College.

**(4)** An investigator may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute any of the following:

- (a) professional misconduct;
- (b) conduct unbecoming the profession;
- (c) incompetence;
- (d) incapacity.

**(5)** A respondent may submit medical information and any information relevant to the complaint to an investigator.

**(6)** When the investigation is finished, the investigator must prepare a report of the investigation and give a copy to the Investigative Committee and a copy to the respondent.

## **Additional information to Investigative Committee**

**28 (1)** The Investigative Committee may at any time direct an investigator to conduct any investigation that the Investigative Committee considers necessary.

**(2)** The Investigative Committee may at any time before or during a meeting receive information in addition to the report of the investigation, if the information is relevant to the matters before it.

**(3)** If the Investigative Committee receives additional information under subsection (2), the respondent must be given an opportunity to respond to the information.

## **Powers of Investigative Committee and disposition of complaint**

**29 (1)** For purposes of this Section,

- (a) "caution" by the Investigative Committee means a determination that a member has breached the standards of professional ethics or practice expected of members in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence, or incapacity, and a caution is not considered to be a licensing sanction;
- (b) "counsel" by the Investigative Committee means a determination that a member could benefit from professional guidance from the College about the subject matter of the complaint in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, and counsel is not considered to be a licensing sanction.

**(2)** When a matter is referred to the Investigative Committee, it must do one of the following:

- (a) dismiss the complaint and, if considered useful by the Investigative Committee, provide guidance to the complainant, the respondent or any other person associated with the complaint, if the Investigative Committee determines that any of the following apply:
  - (i) the subject matter of the complaint is outside the jurisdiction of the College,
  - (ii) the complaint cannot be substantiated or is frivolous or vexatious,
  - (iii) the complaint constitutes an abuse of process,

- (iv) the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel, a caution or both;
- (b) give the complainant, the respondent, and any other person it considers appropriate a reasonable opportunity to appear before a Investigative Committee and to submit representations, explanations or documentation, including medical information and other information relevant to the complaint.

**(3)** After the Investigative Committee has given the parties the opportunity to appear before the Committee under clause (2)(b), the Investigative Committee may require the respondent to do one or more of the following:

- (a) submit to physical or mental examinations by a qualified person or persons designated by the Investigative Committee, and authorize the reports from the examinations to be given to the Investigative Committee;
- (b) submit to a review of the respondent's practice by a qualified person or persons designated by the Investigative Committee, and authorize a copy of the review to be given to the Investigative Committee;
- (c) complete a competence assessment or other assessment or examination the Investigative Committee directs to determine whether the respondent is competent to practice and authorize the assessment or examination report to be given to the Investigative Committee;
- (d) produce any records or documents kept about the respondent's practice.

**(4)** After the Investigative Committee has given the parties the opportunity to appear before the Committee under clause (2)(b), the Committee must do one or more of the following:

- (a) dismiss the complaint and, if the Investigative Committee considers it useful, provide guidance to the complainant, respondent, or any other person associated with the complaint;
- (b) counsel the respondent;
- (c) caution the respondent;
- (d) with the respondent's consent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent, the complainant and any other person the Investigative Committee considers appropriate;

- (e) if a determination is made that the matter or matters warrant a hearing, refer the matter or matters to the Professional Conduct Committee;
- (f) informally resolve the complaint.

(5) A reprimand issued in accordance with clause (4)(d) is a licensing sanction against the respondent and must be dealt with in the same manner as a finding made under Section 51 of the Act.

### **Costs of respondent complying with requirement**

**30** Expenses incurred for a respondent to comply with a requirement under subsection 30(3) must initially be paid by the College, but may be awarded as costs against the respondent under Section 49.

### **Preparing and tendering settlement proposals**

**31 (1)** A settlement proposal may be tendered in writing to the other party at any time before a hearing begins.

(2) A settlement proposal must include all of the following:

- (a) an admission or admissions by the respondent to one or more of the allegations set out in the notice of hearing;
- (b) the respondent's consent to a specified disposition conditional on the acceptance of the settlement proposal by the Investigative Committee and the Professional Conduct Committee.

(3) If both parties agree with a settlement proposal tendered under subsection (1), the College must refer the settlement proposal to the Investigative Committee for consideration.

(4) The parties may agree to use a mediator to prepare a settlement proposal, and the costs for the mediator must be divided equally between the College and the respondent, unless the parties agree to a different division of the costs.

### **Investigative Committee actions when settlement proposal referred**

**32 (1)** The Investigative Committee may recommend acceptance of a settlement proposal if it is satisfied that all of the following are met:

- (a) the public is protected;

- (b) the conduct or its causes can be, or have been successfully remedied or treated, and the respondent is likely to successfully pursue any remediation or treatment required; and
- (c) settlement is in the best interests of the public and the profession.

(2) If the Investigative Committee recommends acceptance of a settlement proposal, the Investigative Committee must refer the settlement proposal to the Professional Conduct Committee for consideration.

(3) If the Investigative Committee does not recommend acceptance of a settlement proposal, the Investigative Committee must do one of the following:

- (a) recommend changes to the settlement proposal that,
  - (i) if agreed upon by the parties, will result in acceptance by the Investigative Committee, or
  - (ii) if not agreed upon by the parties, will result in rejection by the Investigative Committee;
- (b) reject the settlement proposal and refer the complaint considered by the Investigative Committee to the Professional Conduct Committee for hearing.

### **Professional conduct committee actions when settlement proposal referred**

**33** (1) If the Professional Conduct Committee accepts a settlement proposal, the settlement proposal forms part of the order of the Professional Conduct Committee disposing of the matter and, except as provided in subsection 35(3) for a breach of the settlement proposal, there is no hearing.

(2) If the Professional Conduct Committee does not accept a settlement proposal, it must do one of the following:

- (a) suggest amendments to the settlement proposal and return it to the parties for review;
- (b) reject the settlement proposal, in which case the matter is referred to another panel of the Professional Conduct Committee for a hearing.

(3) If both parties do not agree with any amendments to a settlement proposal made under clause (2)(a), the settlement proposal is deemed to be rejected and the matter must be referred to another panel of the Professional Conduct Committee for a hearing.

(4) If both parties agree with any amendments to a settlement proposal made under clause(2)(a), the settlement proposal must be sent back to the Investigative Committee who must do one of the following:

- (a) accept the settlement proposal;
- (b) reject the settlement proposal and refer the matter to another panel of the Professional Conduct Committee for a hearing.

(5) A person who sits on a panel of the Professional Conduct Committee that reviews a rejected settlement proposal must not sit on a panel of a Professional Conduct Committee that conducts a hearing related to the same complaint.

### **Settlement proposals and hearings**

**34 (1)** If a settlement proposal is rejected by the Professional Conduct Committee, a hearing must proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until after the Professional Conduct Committee has determined whether professional misconduct, conduct unbecoming, incompetence or incapacity has been proven.

(2) Before deciding whether to award costs in a hearing, the Professional Conduct Committee may be given a copy of any settlement proposals exchanged between the parties.

(3) Any alleged breach by a respondent of an undertaking given in an accepted settlement proposal or a condition of an accepted settlement proposal must be referred to a Professional Conduct Committee and may form the subject of a new hearing.

(4) A settlement proposal may include any disposition that could be ordered by the Professional Conduct Committee under the Act or these regulations.

### **Consent Revocation**

**35 (1)** A respondent who does not contest the allegations or admits to some or all of the allegations set out in a complaint or the notice of hearing may, with the consent of the College, ask the Professional Conduct Committee to revoke the respondent's licence.

(2) The Professional Conduct Committee may consent to revoke a respondent's licence in accordance with subsection (1) with or without conditions, or may refuse consent.

(3) Notification of a revocation under this Section must be given in accordance with Section 48.

## Hearings

### Notice of hearing

**36 (1)** A notice of hearing must be served on a respondent or a complainant in accordance with Section 49 of the Act.

(2) The notice of hearing must state the details of the charges and state that the respondent may be represented by legal counsel, a union representative or another representative.

### Amendment of notice of hearing

**37 (1)** At any time before or during a hearing, the Professional Conduct Committee may, on its own motion or on the motion of a party to the hearing, amend or alter the notice of hearing for any of the following reasons:

- (a) to correct an alleged defect in substance or form,
- (b) to make the notice conform to the evidence, if there appears to be a difference between the evidence and the notice or if the evidence discloses any of the following that is not stated in the notice:
  - (i) potential professional misconduct,
  - (ii) conduct unbecoming the profession,
  - (iii) incapacity or incompetence.

(2) A respondent must be given an opportunity to prepare an answer to an amendment or alteration to a notice of hearing made by the Professional Conduct Committee.

(3) After receiving a respondent's answer under subsection (2), the Professional Conduct Committee may decide that an amendment or alteration to the notice of hearing should not be made and, if considered appropriate, may refer any new allegations to the Registrar for processing in accordance with Section 28.

### Public notice of hearing

**38** The College must give public notice of any scheduled hearings, through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of a hearing;

- (b) reference to any application being made for an order under subsection 40(2) or (4).

### **Attendance at hearing**

**39 (1)** Except as provided in subsection (2) or (3), a hearing is open to the public.

(2) At the request of a party, the Professional Conduct Committee may order that the public, in whole or in part, be excluded from a hearing or any part of it if the Professional Conduct Committee is satisfied that any of the following apply:

- (a) personal, medical, financial or other matters that may be disclosed at the hearing are of such a nature that avoiding public disclosure of those matters in the interest of the public or any person affected outweighs adhering to the principle that hearings should be open to the public;
- (b) the safety of any person may be jeopardized by permitting public attendance.

(3) The Professional Conduct Committee may make an order that the public be excluded from a part of a hearing that deals with a request for an order to exclude the public in whole or in part under subsection (2).

(4) The Professional Conduct Committee may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a hearing or in any part of a hearing dealing with an order under subsection (2) or (3).

(5) Subject to any order made under this Section, the Professional Conduct Committee must state at a hearing its reasons for any order made under this Section.

### **Hearing procedures**

**40 (1)** A complainant cannot participate as a party at a hearing.

(2) The Professional Conduct Committee may determine any additional rules of procedure for hearings that are not covered by the Act or these regulations.

(3) Witnesses at a hearing must testify under oath or affirmation.

(4) An oath or affirmation taken at a hearing may be administered by any member of the Professional Conduct Committee or other person in attendance authorized by law to administer oaths or affirmations.

(5) The Professional Conduct Committee may require a respondent to do one or more of the following during a hearing:

- (a) submit to physical or mental examinations by a qualified person or persons designated by the Professional Conduct Committee and authorize examination reports to be given to the Professional Conduct Committee;
- (b) submit to a review of the respondent's practice by a qualified person or persons designated by the Professional Conduct Committee and authorize a copy of the review to be given to the Professional Conduct Committee;
- (c) submit to a competence assessment or other assessment or examination the Professional Conduct Committee directs to determine whether the respondent is competent to practise and authorize the assessment report or examination to be given to the Professional Conduct Committee;
- (d) produce any records kept about the respondent's practice that the Professional Conduct Committee considers appropriate.

(6) If a respondent fails to comply with a requirement under subsection (5), the Professional Conduct Committee may order that the respondent be suspended until the respondent complies.

(7) The expenses incurred for a respondent to comply with a requirement under subsection (5) must be initially paid by the College, but may be awarded as costs against a respondent under Section 49.

### **Respondent fails to attend hearing**

**41** After receiving proof of service of the notice of hearing in accordance with Section 49 of the Act, the Professional Conduct Committee may proceed with a hearing in a respondent's absence and take any action authorized under the Act and these regulations without further notice to the respondent.

### **Subpoenaed witness fees**

**42** Witnesses who are present under subpoena at a hearing are entitled to the same allowances as witnesses attending a trial of an action in the Supreme Court of Nova Scotia.

### **Recording evidence at hearing**

**43 (1)** All evidence presented at a hearing must be recorded by a person authorized by the College.

(2) Evidence may be presented at a hearing in any manner that the Professional Conduct Committee considers appropriate, and the committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

## **Preserving evidence**

**44** Evidence obtained by the Professional Conduct Committee and information obtained by the Investigative Committee or an investigator for a complaint that has not been dismissed by the Investigative Committee must be preserved at least 5 years from the date the evidence is presented or the information is obtained.

## **Disposition by Professional Conduct Committee**

**45** If the Professional Conduct Committee finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of a respondent, the Professional Conduct Committee may do one or more of the following and must include orders for it in the Committee's disposition of the matter:

- (a) revoke the respondent's registration or licence and remove the respondent's name from the appropriate rosters;
- (b) for a respondent who held a temporary licence or a temporary licence with conditions or restrictions at the time of the incident giving rise to the complaint, revoke the respondent's ability to obtain registration, or require the respondent to comply with any conditions or restrictions imposed by the Committee if registration is granted;
- (c) authorize the respondent to resign from the Register and remove the respondent's name from the rosters where the name is entered;
- (d) suspend the respondent's licence for a specified period of time and remove the respondent's name from the rosters where the name is entered;
- (e) suspend the respondent's ability to obtain a licence for a specified period of time;
- (f) suspend the respondent's licence pending the satisfaction and completion of any conditions the Professional Conduct Committee orders;
- (g) impose any restrictions or conditions or both on the respondent's licence for a specified period of time;
- (h) reprimand the respondent and direct that the reprimand be recorded in the records of the College;
- (i) direct the respondent to pass a particular course of study or satisfy the Professional Conduct Committee or any other committee established under the Act of the respondent's general competence to practice, or competence in a particular discipline;

- (j) for findings that involve practicing while not holding a valid licence to practice, direct the respondent to pay a fine in an amount determined by the Professional Conduct Committee;
- (k) publish or disclose its findings in accordance with the Act and these regulations.

### **Written decision of Professional Conduct Committee**

**46** The Professional Conduct Committee must prepare a written report of its decision that includes the reasons for the decision, and must provide copies of its decision or information from its decision in accordance with Section 48.

### **Disclosing and publishing decisions**

**47 (1)** Except as prohibited by any publication bans, the Professional Conduct Committee may disclose or publish a decision or part of a decision that dismisses a complaint, in the manner determined by the Professional Conduct Committee.

**(2)** Except as prohibited by any publication bans, the Registrar must do all of the following for any licensing sanction that is issued other than through a hearing:

- (a) make the appropriate entries in the Register and the rosters of the College and, if applicable, on the licence of the member;
- (b) publish a summary of the decision in all of the following:
  - (i) the College website;
  - (ii) the professional conduct digest retained by the College and available to the public;
  - (iii) any official publication determined by the Professional Conduct Committee;
- (c) notify registering bodies in other Canadian regulatory jurisdictions and in the original jurisdiction and other known jurisdictions where the member has practiced of the licensing sanction ordered, and include any other information requested by the other licensing jurisdictions;
- (d) give the respondent a copy of the decision;
- (e) give some or all of the decision as permitted by the Professional Conduct Committee to the complainant;

- (f) give a summary of the decision, parts of the decision or notice of the decision to any other persons the committee making the decision directs.

**(3)** Subject to subsection (4), the summary of a decision required by subsection (2) must be prepared by the College and must contain all of the following information:

- (a) the member's name, city or town of residence, registration number;
- (b) the provision of the Act or the regulations under which the licensing sanction is issued;
- (c) the date of the decision;
- (d) the allegations that were upheld by the Professional Conduct Committee or the Investigative Committee or, for a consent revocation, the allegations that were either admitted by or not contested by the respondent;
- (e) whether the allegations amounted to professional misconduct, conduct unbecoming, incompetence, or incapacity;
- (f) the disposition ordered by the Investigative Committee or the Professional Conduct Committee;
- (g) the reasons for the decision;
- (h) any information the College considers necessary to meet the objects of the College.

**(4)** If a complaint is resolved without a hearing and the allegations have been found to constitute incapacity, the specific nature of the incapacity must not be included in the summary of the decision under subsection (3).

**(5)** Except as prohibited by any publication bans, the Registrar must do all of the following for any licensing sanction that is issued following resolution of a complaint through a hearing:

- (a) make the appropriate entries in the Register and the rosters of the College and, if applicable, on the licence of the member;
- (b) publish a summary of the decision on the College website and in any official publication determined by the Professional Conduct Committee;
- (c) notify registering bodies in other Canadian regulatory jurisdictions and in the original jurisdiction and other known jurisdictions where the member has practiced of the licensing sanction ordered, and include any other information requested by the other licensing jurisdictions;

- (d) give a copy of the decision to the respondent;
- (e) give some or all of the decision to the complainant, as permitted by the Professional Conduct Committee;
- (f) give some or all of the decision to the relevant employer or employers as permitted by the Professional Conduct Committee;
- (g) publish a copy of the full decision in the professional conduct digest of the College and make the professional conduct digest available to the public;
- (h) give copies of the decision, a summary of the decision, parts of the decision or notice of the decision to the public or any other persons, as the Professional Conduct Committee considers necessary.

### **Costs awarded after hearing**

**48 (1)** For purposes of this Section, "costs" includes all of the following:

- (a) expenses incurred by the College in the investigation of a complaint;
- (b) expenses incurred by the College for the activities of the Investigative Committee and the Professional Conduct Committee;
- (c) expenses incurred under Section 31 or subsection 41(7);
- (d) the College's solicitor and client costs, including disbursements and HST, relating to the investigation and hearing of a complaint, including those of College counsel and counsel for the Professional Conduct Committee;
- (e) fees for retaining a court reporter and preparing transcripts of the proceedings;
- (f) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a hearing.

**(2)** Except when awarded costs under this Section, and subject to Section 31 or subsection 41(7), a respondent is responsible for all expenses incurred in their defence.

**(3)** If the Professional Conduct Committee finds professional misconduct, conduct unbecoming, incompetence or incapacity on the part of the respondent, it may order that the respondent pay costs in whole or in part.

**(4)** If the Professional Conduct Committee considers that a hearing was not necessary, it may order the College to pay some or all of the respondent's legal costs.

(5) The Registrar may suspend the licence of any respondent who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

### **Applications for re-instatement**

**49 (1)** An application for re-instatement of registration or a licence must be sent in writing to the Registrar together with the applicable application fee.

(2) An application must include any information the Re-instatement Committee requires to assist it in determining whether the objects of the professional conduct process will be met if re-instatement is granted.

### **Investigation concerning re-instatement application**

**50 (1)** Upon receiving a re-instatement application, the Registrar may request that an investigation be conducted to gather relevant and appropriate information concerning the application.

(2) A person who conducts an investigation must give a written report to the Re-instatement Committee and the applicant that contains all material relevant to the application, including the decision of the Professional Conduct Committee that revoked the applicant's registration or licence, and any relevant information gathered during the investigation.

(3) The Re-instatement Committee must set a date for a re-instatement application and must advise the applicant of the date.

(4) The parties to a re-instatement application are the College and the applicant for re-instatement.

(5) Evidence before the Re-instatement Committee must be taken under oath or affirmation and must be recorded, and is subject to cross-examination.

### **Attendance at re-instatement application**

**51 (1)** Except as provided in subsection (2) or (3), a re-instatement application is open to the public.

(2) At the request of a party, the Re-instatement Committee may order that the public, in whole or in part, be excluded from a re-instatement application or any part of it if the Re-instatement Committee is satisfied that any of the following apply:

- (a) personal, medical, financial or other matters that may be disclosed at the application for re-instatement are of such a nature that avoiding public disclosure of those matters in the interest of the public or any person

affected outweighs adhering to the principle that applications for re-instatement should be open to the public;

- (b) the safety of any person may be jeopardized by permitting public attendance.

(3) The Re-instatement Committee may make an order that the public be excluded from a part of a re-instatement application that deals with a request for an order to exclude the public in whole or in part under subsection (2).

(4) The Re-instatement Committee may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a re-instatement application or in any part of a re-instatement application dealing with an order under subsection (2) or (3).

(5) Subject to any order made under this Section, the Re-instatement Committee must state at a re-instatement application its reasons for any order made under this Section.

### **Public notice of application for re-instatement**

**52** The College must give public notice of any scheduled applications for re-instatement through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of a re-instatement application;
- (b) reference to any application being made for an order under subsection 52(2) or (4).

### **Decision of Re-instatement Committee**

**53 (1)** After considering the evidence and the representations from an applicant and the College representative, the Re-instatement Committee must decide to accept or reject the applicant's re-instatement application and communicate its decision, together with reasons, in writing to the applicant and to the Registrar.

(2) If the Re-instatement Committee accepts a re-instatement application, the Committee may impose any terms and conditions it considers appropriate relating to the re-instatement of the applicant, and the applicant must satisfy all criteria required for a licence.

(3) Except as provided in subsection (4), a decision of the Re-instatement Committee concerning a re-instatement application is final.

(4) An applicant may resubmit a re-instatement application after 1 year has passed since the date of the Re-instatement Committee's initial decision to reject their

application, or after a longer period determined by the Re-instatement Committee that rejected the initial application.

### **Costs of re-instatement application**

**54 (1)** For purposes of this Section, "costs" includes all of the following:

- (a) expenses incurred by the College in the investigation of a re-instatement application;
- (b) expenses incurred by the College for the activities of the Re-instatement Committee;
- (c) the College's solicitor and client costs, including disbursements and HST, relating to a re-instatement application, including those of College counsel and counsel for the Re-instatement Committee;
- (d) fees for retaining a court reporter and preparing transcripts of the proceedings;
- (e) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a re-instatement application.

**(2)** An applicant for re-instatement is responsible for all expenses incurred in the re-instatement application.

**(3)** Whether the application is accepted or rejected, the Re-instatement Committee may recover costs from the applicant.

**(4)** The Registrar may suspend the licence of any person whose licence is being re-instated and who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.