

PART 12 - PUBLIC PROTECTION

Division 1 – Discipline for Administrative Matters

Registrar's authority

- 12-1 (1) The registrar is authorized to dispose of an administrative matter under section 109(1)(c) or (d) of the Act by making a disciplinary order described in section 270(1)(a) or (b) and (2) or section 271(1)(a) of the Act.
- (2) Before disposing of an administrative matter under section 109(1)(b), (c) or (d) of the Act, the registrar must give the respondent an opportunity to be heard by notifying them of the proposed disposition and inviting them to provide written submissions under section 380(2)(a) of the Act before making a decision.

Monetary penalty for administrative matters

- 12-2 Subject to the regulations, the maximum amount of a monetary penalty for an administrative matter under section 109(1)(d) of the Act is \$100,000.

Information to respondent

- 12-3 As soon as practicable after the registrar makes an order disposing of an administrative matter under section 109 of the Act, the registrar must deliver written notice of the order to the respondent, accompanied by
- (a) the items required by section 110(1) of the Act, and
 - (b) any other information or records that, in the opinion of the registrar, the respondent would reasonably require to exercise their right to apply for a review under sections 110(2) and 381 of the Act and section 12-4.

Review of disciplinary order

- 12-4 (1) A respondent may apply under section 110(2) of the Act for a review of a disciplinary order under section 109(1)(b), (c) or (d), within 30 days of their receipt of written notice of the order under section 110(1) of the Act, by providing a completed request for review in the specified form accompanied by any applicable review fee specified in Schedule <>.
- (2) If a respondent applies for review of a disciplinary order under subsection (1),
- (a) the registrar must provide the request for review to the investigation committee, and
 - (b) the investigation committee must
 - (i) conduct a review on the record under section 382(1) of the Act, and
 - (ii) give the respondent an opportunity to be heard by inviting them to provide written submissions under section 380(2)(a) of the Act.
- (3) After completing the review, the investigation committee must deliver written notice of its decision and reasons to the respondent as soon as practicable.

Division 2 – Monitoring Regulatory Compliance

Monitoring regulatory compliance

- 12-5 (1) The registrar may administer a compliance program of the college.
- (2) The compliance program under subsection (1) may implement activities to monitor licensees for contraventions of the Act, the regulations and the bylaws, including ethics standards and practice standards, in accordance with section 118(a) of the Act.
- (3) Without limitation, the compliance program's activities may include any of the following:
- (a) recommending materials for college publication, including materials to educate licensees about their professional obligations and applicable limits and conditions on their practice under the Act, the regulations and the bylaws, including ethics standards and practice standards;
 - (b) collaborating with other colleges, government agencies, public bodies, professional associations or other organizations to share information and coordinate efforts to monitor licensees for contraventions;
 - (c) periodically and selectively monitoring online platforms, social media, websites or other publicly accessible media or resources to identify potential contraventions by selected licensees or licensees generally;
 - (d) periodically requiring some or all licensees to provide self-assessment reports to confirm their continuing awareness of and compliance with the requirements of the Act, the regulations and the bylaws, including ethics standards and practice standards;
 - (e) determining criteria for the selection of licensees for compliance audits of aspects of their practices;
 - (f) determining criteria for deferring or exempting selected licensees from compliance audits;
 - (g) determining the scope of, and performing, compliance audits;
 - (h) appointing one or more employees of the college, contractors, or subject matter experts as assessors to conduct or participate in compliance audits;
 - (i) seeking information from any source to determine if a licensee may have been practising in contravention of requirements of the Act, the regulations or the bylaws, including ethics standards and practice standards;
 - (j) identifying and notifying licensees of potential contraventions, and giving them an opportunity to respond;
 - (k) reporting conclusions to the registrar regarding a licensee's compliance or potential contraventions.
- (4) If a potential contravention by a licensee is reported to the registrar under subsection (3)(k), the registrar may
- (a) refer the matter to the college's quality assurance program, or

- (b) initiate a regulatory complaint under section 119 of the Act.
- (5) A licensee who is subject to a compliance audit must participate in, and cooperate with, the compliance audit process.
- (6) For the purposes of subsection (5), requirements for a licensee's participation in and cooperation with the compliance audit process may include, but are not limited to, any of the following:
 - (a) completing and submitting a compliance audit questionnaire;
 - (b) responding to requests and answering all questions in a prompt and complete manner;
 - (c) providing access to all requested information, files and records in the licensee's possession or control, including but not limited to information, files or records relevant to the licensee's compliance with applicable requirements of the Act, the regulations or the bylaws, including ethics standards and practice standards;
 - (d) attending one or more interviews with an assessor, either in person or by electronic means as directed by the assessor, which interviews may be recorded by the assessor by audio or video;
 - (e) facilitating office and site visits, in person or by electronic means, by the assessor or any person designated by the assessor, including taking reasonable steps to arrange for office and site access.
- (7) An assessor or the registrar may specify time periods for licensees to comply with requirements of the compliance audit process.

Division 3 – Complaints, Reports and Initiating Investigations

Requirements for regulatory report

- 12-6 (1) A regulatory report under Division 6 of Part 3 of the Act must be in writing and given to the registrar.
- (2) A regulatory report must include the following:
- (a) the reporter's name and contact information;
 - (b) if the reporter is reporting on behalf of another person, public body or organization, the name of that person, public body or organization;
 - (c) the respondent's name, if available, or information by which the college may identify the respondent;
 - (d) the specific allegations against the respondent;
 - (e) copies of documents relevant to the allegations, where feasible.

Requirements for regulatory complaint by registrar

- 12-7 A regulatory complaint by the registrar under section 119 of the Act must be in writing, and must include the following:

- (a) the respondent's name, if available, or information by which the college may identify the respondent;
- (b) the allegations against the respondent.

Requirements for regulatory complaint by others

- 12-8 (1) A regulatory complaint under section 120 of the Act must be in writing and given to the registrar.
- (2) A regulatory complaint under section 120 of the Act must include the following:
- (a) the complainant's name and contact information;
 - (b) the respondent's name, if available, or information by which the college may identify the respondent;
 - (c) the specific allegations against the respondent;
 - (d) copies of documents relevant to the allegations, where feasible;
- (3) If the complainant is not the person who experienced the respondent's alleged conduct or the recipient of health care services provided by the respondent that are the subject of their regulatory complaint, the complainant must provide
- (a) the name and contact information for the person who experienced the alleged conduct or received the applicable health care services, and
 - (b) evidence satisfactory to the registrar that the complainant is acting with the consent of or with legal authority to make the regulatory complaint on behalf of the person described in paragraph (a).
- (4) The registrar may vary the procedures for submitting regulatory complaints under section 120 of the Act to accommodate a complainant's individual circumstances.
- (5) If an employee of the college assists a complainant to record a regulatory complaint or particulars of a regulatory complaint in written form under subsection (4), the registrar must deliver a copy of the written regulatory complaint to the complainant, and the complainant may provide clarification to the registrar of the intent of their complaint within a reasonable period of time specified by the registrar.
- (6) If a regulatory complaint is stated to be filed on behalf of another person or organization, the college may act to satisfy itself that the complainant has authority to act on behalf of the specified person or organization.
- (7) If a regulatory complaint is filed by or on behalf of a licensee's employer, the employer is deemed to be the complainant in the matter, and any individual duly authorized by the employer may act on behalf of the employer in respect of the matter.

Preliminary investigation and disposition by registrar

- 12-9 (1) Before referring a regulatory complaint to the investigation committee, the registrar may conduct, or may direct an investigator to conduct, such preliminary or initial

investigation as the registrar may consider relevant or necessary for any of the following purposes:

- (a) to assist in clarifying the complaint or the allegations contained in it;
 - (b) to consider whether the complainant's consent should be sought to transfer the regulatory complainant to another regulator under section 122(4) of the Act;
 - (c) to consider whether direction should be sought from the investigation committee under section 122(1) of the Act to make a summary protection order;
 - (d) to enable the exercise of the registrar's discretion to dispose of the complaint under section 122(3) of the Act, including the possible issuance of
 - (i) an order disposing of all or part of the complaint under section 158(2) of the Act, or
 - (ii) subject to section 258(2)(c)(ii) of the Act, a summary dismissal order under section 258 of the Act;
 - (e) to enable the registrar to complete a written assessment of the complaint under section 123(1)(b) of the Act and make any recommendations to the investigation committee under section 123(1)(c) of the Act.
- (2) For greater certainty, for the purpose of preliminary or initial investigation of a regulatory complaint under subsection (1), the registrar may do any of the following:
- (a) subject to section 12-10(3), deliver to the respondent
 - (i) a copy of the complaint or a summary of it, and
 - (ii) some or all of the information and records obtained with respect to the complaint,
 to give the respondent an opportunity to provide information, records or written submissions that the respondent believes should be considered for any purpose described in subsection (1)(b) to (e);
 - (b) request or obtain additional information or records from the complainant, the respondent or another source;
 - (c) make an order under section 121(2) of the Act;
 - (d) exercise other investigative powers of an investigator under section 131 of the Act, in accordance with section 363(3) of the Act.
- (3) If the registrar makes an order disposing of a regulatory complaint under section 122(3) of the Act without referring the complaint to the investigation committee, the registrar must, within 30 days of making the order, give the investigation committee the following in accordance with section 123(2) of the Act:
- (a) a summary of the complaint and of the information and records received or obtained with respect to it;
 - (b) a copy of the order with reasons.

Notice to respondent and respondent's opportunity to comment

- 12-10 (1) Subject to subsection (3), if the registrar refers a regulatory complaint to the investigation committee under section 123(1) of the Act and the investigation committee does not direct the registrar to make an order disposing of the complaint without further investigation under section 12-15, a suspension order, or a termination order, the registrar
- (a) must deliver a copy of the regulatory complaint or a summary of it to the respondent as soon as practicable, if they have not already done so under section 12-9(2)(a),
 - (b) may deliver to the respondent some or all of the information and records obtained with respect to the complaint, and
 - (c) must invite the respondent to provide any information, records or written submissions in response to the complaint that the respondent believes should be considered by the investigation committee.
- (2) Subject to subsection (3), after receiving notice under section 124(2) of the Act of an investigation initiated by the investigation committee without a regulatory complaint, the registrar
- (a) must deliver to the respondent the written notice required by section 124(3) of the Act, including the reasons for the investigation, as soon as practicable,
 - (b) may deliver to the respondent some or all of the information and records obtained with respect to the investigation, and
 - (c) must invite the respondent to provide any information, records or written submissions in response to the reasons for the investigation that the respondent believes should be considered by the investigation committee.
- (3) The registrar may withhold or postpone notifying a respondent about a regulatory complaint or investigation, providing any related information or records to the respondent, or inviting the respondent to respond to the complaint or the reasons for the investigation, at any time before the investigation is complete if the registrar has reasonable grounds to believe that doing so would risk
- (a) harm to any person, including harm to the continuing provision of health care services to any person, or
 - (b) a material loss of evidence.

Division 4 – Identity Protection

Application for reconsideration of notice of intent or termination order

- 12-11 A person described in section 240(1) of the Act may apply under section 240(5) of the Act for reconsideration of a notice of intent to take an action under section 240(1)(b) or a termination order, within 30 days of their receipt of that notice or order, by providing a completed request for reconsideration in the specified form accompanied by any applicable reconsideration fee specified in Schedule <>.

Division 5 – Investigations of Fitness and Misconduct

Control of investigations

12-12 In addition to the powers in section 127 of the Act, the investigation committee may

- (a) establish and prioritize investigative goals, including
 - (i) to protect the public from harm and discrimination, and give effect to other guiding principles under section 14 of the Act,
 - (ii) to hold licensees accountable for breaching or contravening duties under the Act and maintain public confidence in the professions governed by the college, and
 - (iii) to allocate limited investigative resources in the public interest, and
- (b) prioritize investigation matters in accordance with investigative goals.

Competence assessments

- 12-13 (1) An investigator must notify the registrar of an intention to order a competence assessment under section 132(1) of the Act.
- (2) An investigator may order a competence assessment to evaluate one or more of the following:
- (a) the respondent's clinical performance of the designated health profession;
 - (b) the respondent's knowledge and understanding of the regulatory requirements applicable to the practice of the designated health profession, including practice standards, ethical standards, and anti-discrimination measures;
 - (c) any other aspect of the respondent's practice which will assist in assessing whether the respondent is competent to practise the designated health profession.

Exclusion of unrelated information or records

- 12-14 (1) If an investigator or the registrar receives information or a record in the course of an investigation, including any preliminary or initial investigation under section 12-9, that the investigator or registrar determines not to be related or relevant to the regulatory complaint or the reasons for investigation, the investigator or registrar may omit or remove the information or record from the college's records on the matter.
- (2) If an investigator or the registrar receives information or a record in the course of an investigation, including any preliminary or initial investigation under section 12-9, that the investigator or registrar has reasonable grounds to believe was obtained by a party to litigation or other proceedings of a judicial nature, and that it may have been disclosed to the college by that party in breach of an express or implied undertaking of confidentiality, the investigator or registrar
- (a) must omit or remove the information or record from the college's records on the matter, and

- (b) must not make any other use of the information or record unless authorized by a court order.

Disposition by investigation committee without further investigation

- 12-15 (1) Subject to subsection (3), if the investigation committee determines, upon review of a regulatory complaint referred to the committee under section 123(1) of the Act and after considering
- (a) the information and records provided by the registrar under section 123(1)(a) of the Act, including the respondent's disciplinary record and any capacity summary,
 - (b) the registrar's assessment of the complaint under section 123(1)(b) of the Act, and
 - (c) any recommendations provided by the registrar under section 123(1)(c) of the Act,
- that there are no reasonable grounds to believe that the respondent lacks competence or has committed an act of misconduct, and if the respondent is not subject to a continuing practice order or revocation order, the committee may direct the registrar to make an order dismissing the complaint under section 136(3) of the Act without further investigation.
- (2) Subject to subsection (3) and section 12-17, if the investigation committee determines, upon review of a regulatory complaint referred to the committee under section 123(1) of the Act and after considering items described in subsection (1)(a) to (c), that there are reasonable grounds to believe that the respondent lacks competence or has committed an act of misconduct, the registrar may direct the registrar to dispose of the complaint without further investigation by making an order described in 136(2)(a) of the Act.
- (3) The investigation committee may act under subsection (1) or (2) only if the investigation committee is satisfied that any preliminary or initial investigation already completed by or at the direction of the registrar under section 12-9 is sufficient to satisfy the requirement in section 319(1)(a) of the Act for adequacy of the investigation.
- (4) For greater certainty, if a regulatory complaint is disposed of at the direction of the investigation committee under subsection (1) or (2),
- (a) the registrar's assessment and any recommendations provided by the registrar under section 123(1)(b) and (c) of the Act are deemed to constitute the final report respecting the investigation of the complaint, and
 - (b) neither the registrar nor an investigator is required to provide a further report to the investigation committee under section 134(1) of the Act.

Investigation reports

- 12-16 Except as provided in section 12-15, before issuing a final investigation report under section 134(1) of the Act, an investigator

- (a) must provide a draft of the report to the respondent, and invite them to provide any additional information, records or written submissions that they believe should be considered in response to the draft report within a reasonable period of time specified by the investigator,
- (b) may request any additional information, records or response from the complainant, the respondent or another source that the investigator may consider relevant after reviewing any information, records or written submissions provided by the respondent under paragraph (a), and
- (c) may update the draft report as the investigator may consider necessary or appropriate after reviewing and considering all items received under paragraphs (a) and (b).

Orders for specified education, training or other remedial activities

- 12-17 Before the investigation committee directs the registrar to dispose of a regulatory complaint or investigation under section 159(2)(b) of the Act by making an order without the respondent's consent described in section 269(d)(iii), requiring the respondent to undertake specified education, training or other remedial activities, the investigation committee must direct the registrar
- (a) to provide written notice of the proposed order to the respondent, and
 - (b) to give the respondent an opportunity to provide written submissions to the investigation committee regarding the proposed order.

Respondent's failure to comply with restorative process

- 12-18 If the investigation committee takes action to dispose of a regulatory complaint or investigation under section 136(2)(a) of the Act by directing the registrar to make an order under section 157 of the Act requiring the respondent to engage in one or more restorative processes described in section 268(1) of the Act but later has reasonable grounds to conclude that the respondent failed to comply in good faith with the order, the investigation committee may direct the registrar
- (a) to make one or more further orders under section 136(2)(a) of the Act, or
 - (b) to make a request under section 136(2)(b) of the Act for the director of discipline to issue a citation.

Respondent's failure to consent to disposition

- 12-19 If the investigation committee takes action to dispose of a regulatory complaint or investigation under section 136(2)(a) of the Act by directing the registrar to make an order under section 157 or 158 of the Act but the respondent fails to consent in whole or in part to the order, the investigation committee may direct the registrar
- (a) to make one or more further orders under section 136(2)(a) of the Act, or
 - (b) to make a request under section 136(2)(b) of the Act for the director of discipline to issue a citation.

Investigation expenses

12-20 Subject to any maximum prescribed amount and section 273(3) of the Act, an order for investigation expenses must be determined in accordance with Schedule <>.

Division 6 – Capacity Evaluations

Registrar

12-21 Subject to section 363(3) of the Act, the registrar is authorized to exercise the powers and perform the duties of a capacity officer.

Notice to the respondent

12-22 If the investigation committee directs a capacity evaluation, the registrar must deliver a written order for the capacity evaluation to the respondent as soon as practicable.

Report to capacity officer if respondent fails to cooperate

- 12-23 (1) A licensee, including a licensee of another regulatory college, who conducts an assessment for the purposes of a capacity evaluation must submit a written report to the capacity officer identified by the registrar if the respondent fails to cooperate with the assessment or any part of it.
- (2) For the purposes of subsection (1), a written report must include
- (a) a summary and chronology of all requests made to the respondent to participate in or cooperate with the assessment or any part of it,
 - (b) the respondent's responses, if any, to the requests described in paragraph (a), and
 - (c) copies of any relevant records relating to the requests and any responses described in paragraphs (a) and (b).

Capacity officer's report to registrar

- 12-24 (1) If a capacity officer gives written notice to the registrar under section 142(1) of the Act that a respondent is interfering with the conduct of a capacity evaluation, the notice must outline the basis for the capacity officer's opinion that the respondent
- (a) has not cooperated with the capacity evaluation,
 - (b) has lied or given false information to, or is refusing to comply with a direction given by, a licensee who is conducting an assessment, or
 - (c) has otherwise done, or omitted to do, something that has impeded the conduct or completion of the capacity evaluation.
- (2) The written notice to the registrar must include copies of any relevant records relating to the requests to, and responses, from the respondent.

Capacity officer's notice to the investigation committee of risk to public

- 12-25 If a capacity officer gives written notice to the investigation committee under section 143(1) of the Act of their opinion that a respondent presents a risk to the public, the notice must
- (a) outline the basis for the capacity officer's opinion, and
 - (b) include copies of any relevant records supporting that opinion.

Licensee's assessment report

- 12-26 (1) A licensee, including a licensee of another regulatory college, who conducts an assessment for the purposes of a capacity evaluation must submit a written assessment report to the capacity officer identified by the registrar as soon as practicable after completing the assessment.
- (2) For the purposes of subsection (1), unless otherwise directed by the capacity officer, a written assessment report should ordinarily include the following:
- (a) a summary of the concerns that formed the basis for the assessment;
 - (b) a description of the respondent's practice context and the context in which the concerns arose;
 - (c) a description of the assessment process;
 - (d) a summary of any information obtained from interviews or other sources;
 - (e) the licensee's professional opinion regarding whether the respondent's capacity is impaired by a health condition and, if so, whether the nature or extent of the impairment may present a current or imminent significant risk of harm, and any recommendations to mitigate that risk;
 - (f) any recommendations the licensee may have for any of the following:
 - (i) treatment, education, reassessments, interventions such as training, coaching or mentoring, or other steps to restore or ensure the respondent's continued capacity;
 - (ii) ongoing monitoring to ensure the respondent's continued capacity;
 - (iii) limits or conditions on the respondent's licence to ensure public safety;
 - (iv) what should be required to end monitoring.

Capacity officer's notice to respondent

- 12-27 (1) After reviewing all assessment reports and the respondent's disciplinary record and capacity record, if any, the capacity officer must give written notice to the respondent of the outcome of the evaluation under section 145(1) of the Act, with reasons, as soon as practicable.
- (2) If the capacity officer has reasonable grounds to believe that the respondent lacks capacity, the written notice must include the following:
- (a) a summary of the professional opinions and recommendations contained in the assessment reports;

- (b) the reasons for considering making a continuing practice order or a revocation order, if applicable;
- (c) the timeframe in which the respondent may provide additional information or records or request changes to the order being considered;
- (d) a statement that the continuing practice order or revocation order being considered, if applicable, may be made without further notice to the respondent if the respondent does not provide additional information or records or request a change to the order within the specified timeframe.

Reconsideration of continuing practice order or revocation order

- 12-28 (1) A respondent who is subject to a revocation order may apply under section 148(1) of the Act for reconsideration by the capacity officer, within 30 days of their receipt of written notice of the order, by providing a completed request for reconsideration in the specified form accompanied by any applicable reconsideration fee specified in Schedule <>.
- (2) A respondent who is subject to a continuing practice order may apply under section 148(1) for reconsideration by the capacity officer
- (a) within 30 days of their receipt of written notice of the order,
 - (b) in accordance with the directions of or a schedule set by the capacity officer, or
 - (c) as otherwise authorized by the capacity officer,
- by providing a completed request for reconsideration in the specified form accompanied by any applicable reconsideration fee specified in Schedule <>.
- (3) If a respondent applies for a reconsideration under subsection (1) or (2), the capacity officer must
- (a) conduct the reconsideration under section 382(1) of the Act, and
 - (b) give the respondent an opportunity to be heard by inviting them to provide written submissions under section 380(2)(a) of the Act.
- (4) After completing the reconsideration, the capacity officer must deliver the reconsideration decision with reasons to the respondent as soon as practicable.

Division 7 – Summary Protection Orders

Summary protection orders

- 12-29 (1) When considering whether to direct the registrar to make a summary protection order under section 259(2)(a) of the Act on grounds that the respondent's practice may present a significant risk of harm, the investigation committee must consider all of the following:
- (a) whether there is a *prima facie* case that the respondent lacks competence or has committed an act of misconduct, having regard to

- (i) the facts alleged in a regulatory complaint, if admitted or proven, to the extent the complainant's allegations do not appear to be in conflict with objective or undisputed evidence, manifestly unreliable, or exaggerated, and
 - (ii) any other information obtained in an investigation;
 - (b) whether there is a significant and immediate risk of harm to the public, including a significant and immediate a risk of harm to any person, having regard to
 - (i) the nature and seriousness of the respondent's alleged lack of competence or act of misconduct,
 - (ii) any measures currently in place to protect the public,
 - (iii) the probability of harm, and
 - (iv) the nature and seriousness of the potential harm;
 - (c) whether the public interest requires immediate protection through a summary protection order and, if so, what measures are necessary to protect the public;
 - (d) how specific measures may impact the respondent, and the proportionality of such impacts to the risk of harm to the public.
- (2) When considering whether to direct the registrar to make a summary protection order under section 259(2)(b) of the Act on grounds that the respondent is providing false or misleading information to patients or the public, the investigation committee may consider any scientific or other facts it has reasonable grounds to believe are reliable.
- (3) Without limiting section 259(1), the investigation committee may direct that a summary protection order contain one or more of the following limits or conditions on a respondent's practice:
- (a) a requirement for the respondent to practise under supervision or under the direction of a practising licensee approved by the college;
 - (b) a requirement that the respondent practice only in the presence of a chaperone approved by the college;
 - (c) a restriction on how the respondent practises their profession or engages in any aspect of practice, including but not limited to a condition requiring the respondent to disclose specified information to clients or to post specified signage before providing professional health services;
 - (d) a restriction limiting the classes of client to whom the respondent may provide professional health services;
 - (e) a restriction limiting the scope of professional health services the respondent may provide;
 - (f) a requirement to comply with periodic or random practice audits on terms specified by the college;
 - (g) such other limits or conditions that the committee considers necessary and appropriate to protect the public from a significant risk of harm.

- (4) The registrar must deliver a copy of the summary protection order with reasons to the respondent as soon as practicable.

Reconsideration of summary protection order

- 12-30 (1) A respondent who is subject to a summary protection order may apply under section 261(1) of the Act for reconsideration by the investigation committee
- (a) within 30 days of receipt of written notice of the order,
 - (b) in accordance with the directions of or a schedule set by the investigation committee, or
 - (c) as otherwise authorized by the investigation committee,
- by providing a completed request for reconsideration in the specified form accompanied by any reconsideration fee specified in Schedule <>.
- (2) If a respondent applies for reconsideration of a summary protection order subsection (1), the investigation committee must
- (a) conduct the reconsideration under section 382(1) of the Act, and
 - (b) give the respondent an opportunity to be heard by inviting them to provide written submissions under section 380(2)(a) of the Act.
- (3) After the investigation committee completes the reconsideration, the registrar must deliver the committee's reconsideration decision with reasons to the respondent as soon as practicable.

Division 8 – Obligations of Suspended Licensees

Respondent's duties when practice authority suspended

- 12-31 (1) During any period of suspension of a licensee's practice authority, the licensee must
- (a) not personally engage in the practice of the designated health profession in respect of which licensee's practice authority is suspended or hold themselves out as a licensee authorized to practise that designated health profession, except to the extent permitted expressly by an applicable order or made under the Act,
 - (b) elect either to suspend their practice during the suspension period, or to arrange for another licensee acceptable to the college to act as a *locum* and manage the licensee's practice during the suspension period,
 - (c) arrange for the transfer of clinical records in the licensee's custody and control to a licensee approved by the college, or make other arrangements for clients or clients' representatives to be able to obtain access to their clinical records in accordance with section 9-16,
 - (c) not hold office in the college as a board member, a member of a committee or advisory working group, an investigator, a capacity officer or a quality assurance assessor, or in any other appointed capacity authorized to act on behalf of the college under the Act or bylaws,

- (d) not make appointments for clients or prospective clients,
 - (e) not contact or communicate with clients or prospective clients, except for the purpose of
 - (i) advising a client or prospective client of the fact and duration of the suspension,
 - (ii) advising a client or prospective client that a *locum* or another licensee or appropriate health professional will continue to act or provide services in the suspended licensee's place, or
 - (iii) referring a client or prospective client to another licensee or appropriate health professional,
 - (f) remove the licensee's name and any sign relating to the licensee's practice of the designated health profession in respect of which the licensee's practice authority is suspended from any premises where the licensee practised that designated health profession, and any building in which any such premises are located,
 - (g) prominently display, if required by an disciplinary order, a notice of suspension in a form and in an area approved by the registrar, which states the duration and reasons for the suspension, and
 - (h) pay any fee required by the college when due in order to remain a licensee, and any other outstanding amount owed or owing to the college.
- (2) No licensee or former licensee is entitled to any refund of any fee or other payment made to the college solely on the basis that it was paid during or in relation to a period of suspension.
 - (3) During the period of suspension, a suspended licensee may permit another licensee in good standing to practise the applicable designated health profession within premises where the licensee practised the designated health profession, provided that the suspended licensee complies with the provisions of subsection (1).
 - (4) Any communication under subsection (1)(e) may be made in writing in a form approved in advance by the registrar, or by employing office staff, an answering service, or other method of telecommunication specifically for that purpose.

Division 9 – Citations for Discipline Hearing

Considerations for requesting or cancelling citation

- 12-32 (1) Without limiting the investigation committee's discretion under sections 136(2)(b) and 138(2)(b) of the Act, the committee may consider the following factors when determining whether to direct the registrar to request that the director of discipline issue or cancel a citation, or whether to agree to a disciplinary order that will result in a request to cancel a citation under section 139(1)(b) of the Act:
- (a) the public interest in recommending or continuing to pursue a discipline hearing, having regard to

- (i) the nature and seriousness of the respondent's alleged lack of competence or act of misconduct,
 - (ii) the need to protect the public from harm and discrimination, including actual or potential harm to a complainant or others,
 - (iii) the nature, extent, findings or outcomes of any related criminal, regulatory or other proceedings,
 - (iv) the respondent's disciplinary record and capacity summary, if any, and
 - (v) the availability, nature and adequacy of alternative means of disposing of the matter, with or without the respondent's consent, including steps taken or offered by a respondent to correct or address their alleged lack of competence or act of misconduct;
 - (b) whether there is a reasonable likelihood the college will discharge the burden of proof at a hearing, having regard to
 - (i) the willingness of the complainant and any other necessary witnesses to participate in a hearing,
 - (ii) a provisional assessment of the strength of the evidence available to the college based on information gathered during the investigation, including a provisional assessment of the credibility and reliability of potential witnesses,
 - (iii) the respondent's anticipated defences, and
 - (iv) the strengths and weaknesses of the college's case based on all the information available;
 - (c) any other factors relevant to the circumstances the director of discipline is required to consider before issuing a citation under section 162(1) of the Act or before cancelling a citation under section 167(1) of the Act.
- (2) For greater certainty, the investigation committee may direct the registrar to request a citation based on the public interest in disposing of a matter with a discipline hearing despite a provisional assessment that the college may be unable to discharge the burden of proof.
 - (3) No provision in this section may be construed as waiving any legal advice privilege that applies to communications between a legal professional and the college, including the college's registrar, the investigation committee or anyone else acting on the college's behalf.
 - (4) The registrar is responsible for proposing the content of a citation in consultation with the investigation committee.

Division 10 – Enforcement of Disciplinary Orders

Enforcement of disciplinary orders

- 12-33 (1) The registrar is responsible for establishing a process for the enforcement of orders, including but not limited to enforcement of disciplinary orders made by a discipline panel.
- (2) Without limiting the registrar's powers under section 197(2) of the Act or subsection (1), the registrar may
- (a) recommend that the licence committee attach limits or conditions for the purpose of enforcing a disciplinary order when issuing, varying, renewing or reinstating a licence, if consistent with the terms of the disciplinary order, or
 - (b) publish on the college website, or make publicly accessible by other means, a public notice respecting a licensee's failure to comply with a disciplinary order.

Division 11 – Misconduct Involving Listed Substances

Health Canada notice requests

- 12-34 (1) In this section:

“conduct of an activity”, with reference to a listed substance, includes

- (a) use, possession, compounding, dispensing, administration or prescription of the listed substance, and
- (b) issuance of an order under section 6 of the RHPR to compound, dispense or administer the listed substance;

“consent to retraction” means, in respect of a notice, a letter under section 80(b)(ii) of the *Benzodiazepines and Other Targeted Substances Regulations* (Canada), section G.04.004.3(b)(ii) of the *Food and Drug Regulations* (Canada) or section 60(b)(ii) of the *Narcotic Control Regulations* (Canada) signifying the college's consent to retraction of the notice;

“Federal Minister” means the Minister of Health of Canada, and includes an agent authorized to act on behalf of that Minister;

“listed substance” means a “listed substance” as defined in section 1 of the *New Classes of Practitioners Regulations* (Canada);

“midwife” means a current or former midwife licensee, and includes a person who was previously registered as the equivalent of any class of midwife licensee under the former Act;

“notice” means a notice under section 79(1) of the *Benzodiazepines and Other Targeted Substances Regulations* (Canada), section G.04.004.2(1) of the *Food*

and Drug Regulations (Canada) or section 59(1) of the *Narcotic Control Regulations* (Canada);

“nurse practitioner” means a current or former NP licensee, and includes a person who was previously registered as the equivalent of any class of NP licensee under the former Act;

“relevant standard” means a prohibition, requirement, limit or condition established under the ethics standard or practice standards of the college, or otherwise imposed under the Act, that is relevant to a nurse practitioner’s or midwife’s conduct of an activity with a listed substance.

- (2) If
 - (a) a nurse practitioner or midwife admits to a failure to comply with a relevant standard, or
 - (b) a discipline panel decides under section 191(1) of the Act that a nurse practitioner or midwife has committed an act of misconduct involving failure to comply with a relevant standard,
 the investigation committee may direct the registrar to deliver a written request to the Federal Minister for issuance of a notice in respect of the nurse practitioner or midwife.
- (3) The investigation committee may authorize the registrar to provide a consent to retraction of a notice if
 - (a) the investigation committee is satisfied that the consent to retraction is not contrary to the public interest, and
 - (b) the consent to retraction is not inconsistent with any other limits or conditions imposed on the nurse practitioner’s or midwife’s practice under the Act.
- (4) The registrar must not issue a consent to retraction except in accordance with subsection (3).

Division 12 – Unauthorized Practice and Title Use

Definition

12-35 In this Division:

“unauthorized practice” means conduct contravening section 29 of the Act;

“unauthorized use of title” means conduct contravening section 30 of the Act.

Unauthorized practice and title use monitoring program

- 12-36 (1) The registrar may administer an unauthorized practice and title use monitoring program of the college.

- (2) The monitoring program under subsection (1) must monitor for and receive reports relating to
 - (a) the unauthorized practice of restricted activities or aspects of practice of the designated health professions for which the college is responsible, and
 - (b) the unauthorized use of titles reserved for the use of classes of licensees of the college.
- (3) Without limitation, the activities of the monitoring program under subsection (1) may include any of the following:
 - (a) recommending materials for college publication, including materials to educate the public on risks arising from unauthorized practice, the purposes of exclusive titles, and how members of the public may report unauthorized practice or an unauthorized use of title to the college;
 - (b) collaborating with other colleges, government agencies, public bodies, professional associations or other organizations to share information and coordinate efforts to identify unauthorized practice or unauthorized uses of title;
 - (c) periodically and selectively monitoring online platforms, social media, websites or other publicly accessible media or resources to identify individuals or other entities who may be engaging in unauthorized practice or an unauthorized use of title;
 - (d) periodically and selectively monitoring former licensees to ensure they are not engaged in unauthorized practice or an unauthorized use of title,
 - (e) investigating any matter relating to unauthorized practice or an unauthorized use of a title reported to, or found by, the monitoring program;
 - (f) such other activities that the registrar may direct or authorize.
- (4) For the purposes of an investigation under subsection (3)(e), the registrar may request a direction from the investigation committee, in accordance with section 374(1)(a) of the Act, to appoint one or more investigators under section 126(1)(a) of the Act to conduct or assist with the conduct of the investigation.
- (5) The college must keep the identity of individuals who report to the monitoring program confidential unless disclosure is necessary for the college to exercise a power or perform a duty.

Public notice of unauthorized practice or title use

- 12-37 (1) Without limiting the registrar's powers under section 377 of the Act, if the registrar concludes after investigation that a person has engaged or is engaging in unauthorized practice or an unauthorized use of title, the registrar may, subject to subsection (2), publish on the college website, or make publicly accessible by other means, a public notice respecting the person's unauthorized practice or unauthorized use of title.

- (2) If the college has or is reasonably able to obtain contact information for a person described in subsection (1), the registrar must, before publishing a public notice respecting that person under subsection (1),
 - (a) provide written notice to the person of the proposed public notice, and
 - (b) give the person an opportunity to provide written submissions regarding the proposed public notice.