



## **Committee Terms of Reference**

**Committee Name: Discipline**

**Date:** January 15, 2010

### **Purpose:**

The Disciplinary Committee conducts hearings to determine whether a member, whose conduct is the subject of a report by the professional conduct committee, is guilty of professional misconduct, professional incompetence or both; and to report to Council on the decision and the order made where the member is found guilty.

### **Membership:**

Five committee members are appointed by Council, the majority being practicing members, including one public appointee from Council and no elected members of Council. Committee members are appointed for a three year term, renewable once, with the terms of office staggered to ensure continuity. The Chair is appointed by Council.

Only individuals who have completed Administrative Tribunal Training are eligible for appointment to the Discipline Committee.

Members: Don Brickner, Chair (2008 to 2011); Jamie Struthers, Public Representative (2009 to 2012); Rob Ferland (2008 to 2011), Danae Ackles (2009 to 2012), and one fire representative (TBD)

### **Responsibilities:**

1. To review the reports of the professional conduct committee;
2. To conduct hearings to review the complaints set out in the reports of the professional conduct committee;
3. To determine whether the member whose conduct is the subject of a report is guilty of professional misconduct, professional incompetence or both;
4. To make an order where the member is found guilty;
5. To provide a written decision to council respecting the committee's decision and order where the member is found guilty; and
6. To recommend to Council any policy or procedural improvements which would facilitate the work of the Discipline Committee or be in the best interests of the public.

### **Priority Deliverables/Tasks for 2008-09:**

At its September 12, 2008, meeting Council set the following priorities for the 2008-09 year: Development and recommendation to Council of Disciplinary hearing process guidelines.

### **Resources:**

Expenses of committee members to participate in committee meetings and activities will be reimbursed according to college policy. From time to time Council may establish funds to support committee activities. The Executive Director will provide administrative support to the committee. The Committee may request the Executive Director to retain legal counsel for the Committee. The Council has established a budget for Disciplinary hearings which may be accessed through the Executive Director. The Committee may invite people with expertise as needed.

**Accountability:**

The Committee may meet as needed at the discretion of the chair or Council and will report in a timely fashion to the Council. The Committee shall abide by College policies and work within the budget provided by Council. Committee members are expected to attend committee meetings and participate in committee activities on a reliable basis. The *Administrative Bylaws* provide a means for removal and replacement of committee members by Council in situations where regular attendance is not maintained.

The Committee reports to the Council.

**Authority:**

According to the *Paramedics Act*:

## DISCIPLINE

**Professional incompetence**

**24** Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
  - (b) provide one or more services ordinarily provided as a part of the practice of the profession;
- is professional incompetence within the meaning of this Act.

**Professional misconduct**

**25** Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the bylaws; or
- (d) it is a failure to comply with an order of the professional conduct committee, the discipline committee or the council.

**Discipline committee**

**29(1)** The discipline committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members and one of whom is a member of the council appointed pursuant to section 9.

(2) No member of the professional conduct committee and no elected member of the council is eligible to be a member of the discipline committee.

(3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and proceedings.

**Discipline hearing**

**30(1)** Where a report of the professional conduct committee recommends that the discipline committee hear and determine a formal complaint, the executive director shall, at least 14 days before the date the discipline committee is to sit:

- (a) send a copy of the formal complaint to the member whose conduct is the subject of the hearing; and
- (b) serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.

(2) The professional conduct committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.

- (3) The discipline committee shall hear the formal complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.
- (4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
- (5) The discipline committee may employ, at the expense of the college, any legal or other assistance that it considers necessary, and the member whose conduct is the subject of the hearing, at his or her own expense, may be represented by counsel.
- (6) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.
- (7) At a hearing by the discipline committee, there is to be full right:
- (a) to examine, cross-examine and re-examine all witnesses; and
  - (b) to present evidence in defence and reply.
- (8) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to:
- (a) a member whose conduct is the subject of a hearing pursuant to this Act;
  - (b) a member of the professional conduct committee; or
  - (c) a member of the discipline committee.
- (9) Where a writ issued pursuant to subsection (8) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
- (10) Subject to *The Evidence Act* and section 58 of *The Regional Health Services Act*, and notwithstanding any other Act or the regulations made pursuant to any other Act, the records of any facility operated by a regional health authority or affiliate, within the meaning of *The Regional Health Services Act*, may be brought before the discipline committee, without special order, by writ of *subpoena duces tecum* issued pursuant to subsection (8) and served on the chief executive officer of the regional health authority or affiliate.
- (11) Where the member whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in his or her absence.
- (12) If, during the course of a hearing, the evidence shows that the member whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member of that fact.
- (13) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member an opportunity to prepare a defence to the amended formal complaint, unless the member consents to continue the hearing.
- (14) The person, if any, who made the complaint pursuant to section 27:
- (a) is to be advised orally or in writing by the executive director of the date, time and place of the hearing; and
  - (b) subject to subsection (16), is entitled to attend the hearing.
- (15) Subject to subsection (16), the discipline committee shall conduct all hearings in public.
- (16) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing where the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member whose conduct is the subject of the hearing.

### **Disciplinary powers**

**31(1)** Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:

- (a) an order that the member be expelled from the college and that the member's name be struck from the register;

- (b) an order that the member's licence be suspended for a specified period;
  - (c) an order that the member's licence be suspended pending the satisfaction and completion of any conditions specified in the order;
  - (d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
    - (i) not do specified types of work;
    - (ii) successfully complete specified classes or courses of instruction;
    - (iii) obtain medical or other treatment or counselling or both;
  - (e) an order reprimanding the member;
  - (f) any other order that the discipline committee considers just.
- (2) In addition to any order made pursuant to subsection (1), the discipline committee may order:
- (a) that the member pay to the college, within a fixed period:
    - (i) a fine in a specified amount not exceeding \$5,000; and
    - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and costs of legal services and witnesses; and
  - (b) where a member fails to make payment in accordance with an order pursuant to clause (a), that the member's licence be suspended.
- (3) The executive director shall send a copy of an order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.
- (4) Where a member is expelled from the college or a member's licence is suspended, the executive director shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.
- (5) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence.

### **Continuity of committee**

**32** Where an investigation is commenced by the professional conduct committee or a hearing is commenced by the discipline committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the professional conduct committee or the discipline committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

### **Criminal conviction**

**33** The discipline committee may make any order pursuant to section 31, where:

- (a) the member has been convicted of an offence pursuant to the *Criminal Code*, the *Controlled Drugs and Substances Act* (Canada) or the *Food and Drugs Act* (Canada);
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member mentioned in clause (a) an opportunity to be heard; and
- (d) the discipline committee finds that the conduct of the member giving rise to the conviction is professional misconduct.

### **Duty to report**

**34** Where the professional conduct committee in its investigation pursuant to section 27 or the discipline committee at the conclusion of its hearing pursuant to section 30 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the college; and
- (b) the Deputy Minister of Justice.

### **Suspension**

**35** A judge of the court, on the application of the council, may direct that a member's licence be suspended pending the disposition of a criminal charge where:

- (a) a criminal charge is laid against the member; and
- (b) the member has applied to the court for a stay of any disciplinary proceedings against the member.

### **Review by council**

**36(1)** A member may appeal the decision or any order of the discipline committee to the council by serving the executive director with a notice of appeal within 30 days after the decision or order where:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee; or
- (b) the member is subject to an order made pursuant to section 33.

According to the *Regulatory Bylaws Pursuant to the Paramedics Act* Section 8 Statutory Committees:

#### **(2) Discipline Committee**

- (a) The discipline committee shall consist of five people appointed by council, one of whom shall be a public representative.
- (b) Due to membership diversity council will attempt to ensure broad representation when appointing committee members.
- (c) The chair of the discipline committee shall be determined by council.
- (d) The duties of the discipline committee shall be:
  - (i) to review the reports of the professional conduct committee;
  - (ii) to conduct hearings to review the complaints set out in the reports of the professional conduct committee;
  - (iii) to determine whether the member whose conduct is the subject of a report is guilty of professional misconduct, professional incompetence or both; and
  - (iv) to provide a written decision to council respecting the committee's decision and order where the member is found guilty.