



Committee Terms of Reference

Committee Name: Professional Conduct

Date: January 15, 2010

Purpose:

The Professional Conduct Committee reviews and investigates complaints of professional misconduct or professional incompetence and reports to the Discipline Committee as to whether or not a disciplinary hearing should be conducted.

Membership:

Five committee members are appointed by Council, the majority being practicing members, and none are Council Members. 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 Professional Conduct Committee.

Members: Ken Luciak, Chair (2008-2011); Al Schneider (2008-2011), Barry Szeles, Fire Representative (2008-2011), Ian Young (2008-2010), Kathy Christmann (2009-2012), Brad Mee (2010-2013).

Responsibilities:

1. Review complaints
2. Investigate complaints
3. Take action to resolve disputes where alternative dispute resolution (ADR) is appropriate
4. Report to the Disciplinary Committee on the results of the review, investigation and ADR.
5. Direct the prosecution of a disciplinary hearing.
6. Recommend to Council investigative process guidelines, the establishment of an investigative capacity or other policy or procedural items that will facilitate the work of the Committee.

Priority Deliverables/Tasks for 2009-10:

1. Training to increase the competence and confidence of committee members.
2. Recruitment of additional committee members.

Resources:

Expenses of committee members to participate in committee meetings and activities will be reimbursed according to college policy. The Committee may invite people with expertise as needed. 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 contract investigative services.

Accountability:

The Committee may meet as needed at the discretion of the chair or Council and will report in a timely fashion to the Discipline Committee. 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 Disciplinary Committee.

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.

Professional conduct committee

26(1) The professional conduct committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members.

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

Investigation

27(1) Where the professional conduct committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint or assessing the member's competence.

(2) On completion of its investigation, the professional conduct committee shall make a written report to the discipline committee recommending:

- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
- (b) that no further action be taken with respect to the matter under investigation because:
 - (i) the matter has been resolved with the consent of the complainant and the member who is the subject of the investigation; or
 - (ii) in the opinion of the professional conduct committee, no further action is warranted on the facts of the case.

(3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).

(4) A report signed by a majority of the professional conduct committee is the decision of that committee.

(5) The professional conduct committee shall provide, or cause the executive director to provide, a copy of a written report made pursuant to clause (2)(b) to:

- (a) the council;
- (b) the complainant, if any; and
- (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

Temporary suspension

28(1) Where the professional conduct committee is of the opinion that, on the basis of the allegations or the nature of the case, a member's licence should be suspended or a member should be prohibited from performing any practice or procedure pending the outcome of an investigation or hearing, it may, with the prior approval of the council, apply to a judge of the court for an order:

- (a) suspending the licence of the member whose conduct is the subject of an investigation pursuant to subsection 27(1) or against whom a formal complaint has been made pursuant to clause 27(2)(a); or
- (b) temporarily prohibiting the member described in clause (a) from performing any specified practice or procedure.

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

- (a) 90 days from the date of the order;
- (b) the date of a report of the professional conduct committee made pursuant to clause 27(2) (b);

- (c) where the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;
 - (d) where the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 31.
- (3) The professional conduct committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

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.

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.

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.

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

The statutory committees of the college are Professional Conduct Committee and Discipline Committee.

(1) Professional Conduct Committee

- (a) The professional conduct committee shall consist of five people appointed by council.
- (b) Due to membership diversity council will attempt to ensure broad representation when appointing committee members.

- (c) The chair of the professional conduct committee shall be determined by council.
- (d) The professional conduct committee shall notify, in writing, the member who is the subject of the complaint or allegation that a complaint has been received and ask for a written response within 30 days.
- (e) The professional conduct committee may proceed with an investigation if the member fails to submit the written response pursuant to subsection (d).
- (f) The professional conduct committee shall notify, in writing, the person who made the report or allegation that the report will be reviewed.
- (g) The professional conduct committee shall take appropriate action including:
 - (i) receiving and reviewing complaints brought against any member;
 - (ii) resolving the matter with the consent of the complainant and the member who is the subject of the investigation;
 - (iii) requesting any person to answer any questions and to produce any records, notes, books, papers or other documents or things in the person's possession or under their control that are or may be relevant to the report or allegation being investigated;
 - (iv) with the consent of the person under clause (iii) producing, copying and keeping copies of any of the documents or evidence produced under clause (iii); and
 - (v) holding in confidence all documentation and information received.