HPDT
Health Professions
Discipline Tribunals

RULES OF PROCEDURE (revised June 13, 2025)

These Rules of Procedure, made pursuant to the Ontario *Statutory Powers Procedure Act*, apply to the Ontario Audiologists and Speech-Language Pathologists Discipline Tribunal, the Ontario Chiropodists and Podiatrists Discipline Tribunal, the Ontario Massage Therapists Discipline Tribunal, the Ontario Occupational Therapists Discipline Tribunal, the Ontario Physicians and Surgeons Discipline Tribunal and the Ontario Registered Psychotherapists Discipline Tribunal. Each is the Discipline Committee of their respective health college established under the Health Professions Procedural Code and is called the "Tribunal" in these Rules.

Each Tribunal is an independent adjudicative tribunal that decides, in accordance with the public interest, allegations of professional misconduct and incompetence against registrants or former registrants referred to it by the College's Inquiries, Complaints and Reports Committee. The Tribunal also decides applications for reinstatement brought by former registrants and applications related to its orders and information contained on the public register.

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Rule 1 – Application of the Rules

1.1.1 Tribunal proceedings shall be transparent, fair, efficient, just and timely. The Tribunal will adapt processes to the needs of a matter before it and to allow all participants, including the self-represented, to participate fairly and effectively. Decisions shall be made in the public interest and take particular account of the need to be accessible to all, including disadvantaged and vulnerable individuals and groups.

1.1.2 All orders and directions made under these rules shall be proportionate to the importance and complexity of the issues in dispute.

1.1.3 The Tribunal may waive any rule, change any time limit or due date, or excuse the failure to follow a rule or time limit, unless this is not allowed by the Code or other legislation, or it is clear from the context that a specific rule must always be followed.

1.1.4 The Tribunal may decide the procedure for anything not covered by these rules.

Respectful Communication

1.2.1 All documents filed and all written and oral communications with the Tribunal must be relevant to the proceeding and respectful to all participants and to the Tribunal.

1.2.2 Failure to comply with this rule may be a relevant factor in making a costs award.

Definitions

1.3.1 These are the definitions for terms and expressions used in these rules:

“Act” means the *Regulated Health Professions Act, 1991*; (loi)

“business day” means any day that is not a Saturday, Sunday, Ontario public holiday, or another day on which the Tribunal Office is closed, which includes the National Day for Truth and Reconciliation and the days between Christmas and New Years Day; (jour ouvrable)

“case management chair” means a member of the Tribunal assigned to conduct case management conferences and/or case management in writing; (président de gestion de l’instance)

"Code" means the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*; (Code)

"College" means the College whose Inquiries, Complaints and Reports Committee or Registrar referred the allegations to the Tribunal; (Ordre)

"motion" means a request for an order or direction; (motion)

"panel" means a panel assigned to hear a motion or the merits of a proceeding and includes a Tribunal member sitting alone; (sous-comité)

"party" means the College or the registrant; (partie)

"participant" means a party and any other person with a right to participate in the proceeding or a portion of the proceeding; (participant)

"patient" does not include the registrant; (patient)

"patient health record" means a record in any form kept by a registered health professional in the course of providing services to a patient; (dossier médical du patient)

"personal health information" has the meaning in s. 4 of the *Personal Health Information Protection Act, 2004*; (renseignements personnels sur la santé)

"proceeding" includes all steps in a matter before the Tribunal; (instance)

"registrant" means the member or former member of the College, as set out in the Act and the Code, against whom allegations of misconduct or incompetence have been referred to the Tribunal, or the applicant in a proceeding under rule 13; (inscrit)

"representative" means a person holding an L1 or P1 licence from the Law Society of Ontario or permitted to provide legal services without a licence under Part V of By-Law 4 of the Law Society of Ontario; (représentant)

"remote hearing" means a hearing or part of a hearing held electronically by videoconference, teleconference or in writing; (audience à distance)

"sexual activity" includes any communication made for a sexual purpose or whose content is of a sexual nature; (activité sexuel)

"Tribunal" means the Tribunal to which the allegations were referred; (Tribunal); and

"Tribunal Chair" means the Chair of the Tribunal appointed by the College's Board or Council (président du Tribunal)

Counting Time

1.4.1 This is how to count time in these rules or in a Tribunal direction or order:

a. When counting the number of days between two events, the day the first event happens is not counted and the day the second event happens is counted.

b. When the deadline to do something is less than seven days, only business days are counted.

c. When the deadline to do something falls on a day that is not a business day, the deadline moves to the next business day.

d. When a document is delivered or filed after 4 p.m. or on a day that is not a business day, the document is considered delivered or filed on the next business day.

Documents

1.5.1 Documents and communications shall be in electronic format, in accordance with the Practice Direction on Format of Documents.

1.5.2 Documents and communications with the Tribunal shall be delivered to all participants by:

a. email;

b. secure file transfer service;

c. another method directed or permitted by the Tribunal; or

d. another method agreed to by the recipient.

1.5.3 Documents and communications may be filed with the Tribunal by:

a. email to tribunal@hpdt.ca;

b. secure file transfer service; or

c. another method directed or permitted by the Tribunal.

1.5.4 At the time of filing, delivery must be confirmed by:

a. sending the Tribunal the electronic communication sent to the other participant; or

b. filing a confirmation of delivery (Form 1).

1.5.5 This rule does not apply to summonses, which must be served personally on the person summoned in accordance with s. 12 of the *Statutory Powers Procedure Act* and the Tribunal's Practice Direction on Summonses.

Rule 2 – Openness

2.1.1 Tribunal hearings are open to the public. Anyone may access the public record of the proceeding except as set out in this rule.

2.1.2 The public record of the proceeding consists of the following documents, subject to rules 2.2.2 and 2.2.3:

a. notices of hearing, notices of application, statements of particulars, agreed statements of fact, statement of uncontested facts, notices of motion, motion records, books of authorities, factums and written submissions filed with the Tribunal;

b. exhibits, including any marked for identification;

c. case management directions, orders and reasons; and

d. any other document(s) the Tribunal orders be part of the public record of the proceeding.

2.1.3 Requests for documents in the public record shall be made to the Tribunal Office. Requests for hearing transcripts shall be made to the court reporting service. The requestor is responsible for any associated costs.

2.1.4 The court reporting service shall not provide a copy of the transcript to anyone other than a participant in the proceeding unless it has been redacted by the Tribunal Office to remove personal health information, patient health records, patient names and any information that could identify a patient.

Departing from Openness

2.2.1 Case management conferences are not open to the public.

2.2.2 No one shall publish or broadcast the names of patients or any information that could identify patients or disclose patients' personal health information or health records referred to at a hearing or in any documents filed with the Tribunal, unless the Tribunal orders otherwise.

2.2.3 Patient health records are not part of the public record of the proceeding unless the Tribunal orders otherwise.

2.2.4 Participants shall not include the following information in documents or exhibits filled with the Tribunal other than patient health records, unless necessary to the Tribunal's decision or the Tribunal orders otherwise:

a. name of, or any information that could identify, a patient;

b. patients' personal health information, unless the details are important to addressing issues in dispute;

c. social insurance numbers and employee identification numbers;

d. OHIP billing numbers, health card numbers, business numbers, or GST/HST account numbers;

e. date of birth (unless it must be provided, in which case only the year must appear);

f. name of any person under the age of 18; and

g. account numbers from banks or other financial institutions.

2.2.5 Where a participant files a document that includes unredacted information set out in rule 2.2.4, it shall not be part of the public record of the proceeding and the participant filing it shall file a second version that does not contain the information and that shall be part of the public record of the proceeding.

2.2.6 The Tribunal may waive rule 2.2.5 on the basis that it would be onerous to redact the information, or on other grounds.

2.2.7 If a motion record or document book includes exhibits containing patient health records, it shall not be part of the public record of the proceeding and the participant filing it shall file a second version of the motion record or document book that shall be part of the public record of the proceeding with those exhibits removed.

2.2.8 The Tribunal may:

a. restrict access to documents and exhibits;

b. require parties to redact personal or sensitive information from documents filed with the Tribunal and make the redacted versions part of the public record;

c. make an order that no one shall publish or broadcast certain information in addition to the restrictions in rule 2.2.2; and

d. make an order that some or all of the hearing not be open to the public where:

   i. matters involving public security may be disclosed;

   ii. financial or personal or other matters may be disclosed that are of such a nature that the harm created by disclosure would outweigh the desirability of adhering to the principle that hearings be open to the public;

   iii. a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or

   iv. the safety of a person may be jeopardized.

2.2.9 Anyone seeking an order under rule 2.2.8 shall provide notice of the request to the media using Form 2A. The completed Form 2A shall be filed with the Tribunal and will be posted on the Tribunal's website.

2.2.10 When making any order restricting openness the Tribunal must be satisfied that:

a. openness poses a serious risk to an important public interest;

b. reasonable alternative measures will not address this risk; and

c. the benefits of the order outweigh its negative effects on openness.

Access to Documents Filed Under Previous Rules

2.3.1 Rule 2.3 applies to requests for documents filed before these Rules took effect at the Tribunal, except for notices of hearing and transcripts of evidence. The effective date for each Tribunal is listed in Appendix A.

2.3.2 The requestor must file a motion using Form 2B. The parties shall have one week to respond to the motion. The motion will be granted unless a party opposing access establishes that the criteria in rule 2.2.10 are met.

2.3.3 The Tribunal will redact the names of patients any information that would identify patients, personal health information and any other information subject to a non-publication order. The Tribunal will not provide the requestor with exhibits or documents that are patient health records.

Rule 3 – Accommodation and Language

3.1.1 Participants in Tribunal proceedings are entitled to accommodation of *Human Rights Code* protected needs. The Tribunal Office must be notified of a need for accommodation as soon as possible.

3.1.2 Written communications with the Tribunal may be in French or English.

3.1.3 A party or witness appearing before the Tribunal may use an interpreter. Interpretation services will be provided by the Tribunal on request to the Tribunal Office.

3.1.4 A party intending to call a witness whose testimony will require interpretation must notify the Tribunal as soon as possible and, in any event, no later than seven days before the day on which the witness will testify.

Language of Proceedings

3.2.1 A proceeding shall be conducted in English, French or both English and French.

3.2.2 The language of the proceeding is the choice of the registrant.

3.2.3 In accordance with s. 86(4) of the Code, a person's right under this rule is subject to the limits that are reasonable in the circumstances.

3.2.4 A registrant who asks to change the language of the proceeding from the language in which it started shall make the request within 60 days of the date of service of the notice of hearing or notice of application.

3.2.5 Documents provided in a language other than English or French shall be accompanied by a translation of the document into the language of the proceeding. The translation must be prepared by a qualified translator who certifies that the translation is true and accurate to the best of the translator's skill and ability. The party or person providing the document is responsible for the cost of its translation.

Rule 4 – Notice of Hearing

4.1.1 After the Inquiries, Complaints and Reports Committee refers allegations to the Tribunal, the College shall file a notice of hearing using Form 4.

4.1.2 Where a participant has been notified of a hearing and does not attend or participate, the Tribunal may proceed in their absence, and they are not entitled to any further notice in the proceeding.

4.1.3 A notice of hearing forms part of the public record from the time it is filed and shall not be read into the record at a hearing.

Rule 5 – Additional Participants

5.1.1 The Tribunal may permit a person to participate in a proceeding under s. 41.1 of the Code.

5.1.2 A request to participate shall be made as a motion using Form 5 setting out the requestor's interest in the proceeding, together with any evidence to support that interest. The request must be made as soon as possible after the person becomes aware of the proceeding or their interest.

5.1.3 The Tribunal will decide the extent of the requestor's participation.

5.1.4 In a motion for production of third-party records, the holder of the records and the individual who is the subject of those records are participants and entitled to notice of the motion.

Rule 6 – Notice of Constitutional Question

6.1.1 A party that intends to raise a question about the constitutional validity or applicability of legislation, a regulation or a by-law made under legislation, or a rule of common law, or that claims a remedy under subsection 24(1) of the *Canadian Charter of Rights and Freedoms* in relation to an action or omission of the Government of Canada or the Government of Ontario, shall complete a notice of constitutional question using Form 6.

6.1.2 The completed notice shall be delivered to the other party and to the Attorneys General of Canada and Ontario as soon as the circumstances requiring notice become known and, in any event, at least 15 days before the question is to be argued. The notice must be filed with the Tribunal Office after delivery.

6.1.3 Where the Attorney General of Canada or the Attorney General of Ontario is entitled to notice under this section, they are entitled to adduce evidence and make submissions to the Tribunal in respect of the constitutional question.

Rule 7 – College Disclosure in Discipline Proceedings

7.1.1 The College shall disclose all potentially relevant documents and things in its possession or control by the date set by the Tribunal in its introduction letter. If the College requests an extension of the deadline it must advise the Tribunal no later than 15 before the deadline and a case management conference will be scheduled.

7.1.2 At the time of disclosure, the College must identify any potentially relevant documents, such as Crown briefs, not yet in its possession but on which it expects to rely.

7.1.3 A registrant seeking further documents from the College shall file a motion no later than 90 days after receiving the College's disclosure. The motion record shall include prior correspondence requesting the documents from the College representative and the College representative's response.

7.1.4 The College shall disclose all further potentially relevant documents as soon as possible after receiving or creating them.

7.1.5 Disclosure shall only be shared or distributed for the purposes of the proceeding or as required by law, unless the Tribunal orders otherwise. The Tribunal may place additional conditions on the use of disclosure documents.

7.1.6 The Tribunal may make an order addressing a breach of rule 7.1.5. An intentional breach of Rule 7.1.5 may constitute unreasonable and bad faith conduct for the purposes of rule 17.1.1.

Rule 8 – Statement of Particulars

8.1.1 The Tribunal may direct a party to file a statement of particulars explaining in detail the facts and the legal basis for the party's position, or providing more details, information or documents, if the Tribunal considers it necessary for a better understanding of the issues in dispute.

Rule 9 – Case Management

Principles

9.1.1 The Tribunal case manages every proceeding so that, among other things:

a. hearings progress in a fair and timely way, in the public interest;
b. hearing time is used efficiently and effectively;
c. procedural and legal issues are identified early; and
d. adjournments are only necessary in exceptional circumstances.

Case Management Conferences (CMCs)

9.2.1 CMCs are held by videoconference unless the Tribunal directs otherwise.

9.2.2 A CMC is held in every proceeding. The case management chair shall prepare a case management direction after every CMC.

9.2.3 The Tribunal may, at a party's request or on its own initiative, hold additional CMCs at any time during a proceeding.

9.2.4 Unless the parties agree, a case management chair who has been involved in discussions of the strengths and weaknesses of the parties' evidence and arguments, or of possible resolutions, will not sit as a member of the panel for the merits hearing.

Confidentiality

9.3.1 CMC memos, and discussions during the CMC of the strengths and weaknesses of the parties' evidence and arguments and of possible resolutions, are without prejudice and may not be disclosed by anyone unless all parties and the Tribunal agree, or disclosure is required by law.

CMC Memos

9.4.1 Each party shall prepare a CMC memo using Form 9.

9.4.2 The CMC memo must:

a. briefly describe the party's theory of its case and the legal issues as understood at the time;

b. estimate the number of hearing days needed for that party's case;

c. identify whether the party expects to call expert witnesses and on what issues;

d. where possible, identify the intended witnesses;

e. identify any intended pre-hearing motions;

f. provide the party's position on settlement;

g. identify the party's position on penalty; and

h. include any other information to assist the CMC process.

9.4.3 The College shall deliver and file its CMC memo no later than 20 days before the first CMC. The registrant shall deliver and file their CMC memo no later than 10 days before the first CMC.

Scope of Case Management

9.5.1 The case management chair may assist parties to:

a. identify or simplify the issues;

b. explore agreement on facts or evidence; and

c. identify potential motions.

9.5.2 The case management chair may make orders and directions to assist in the fair and efficient management of the proceeding, including:

a. scheduling or adjourning hearing or motion dates;

b. making orders under rule 2;

c. directing disclosure;

d. requiring further or better witness statements;

e. directing the order of witnesses;

f. making directions under rule 8;

g. making directions under rule 14;

h. permitting or requiring a witness to provide their evidence in chief by affidavit;

i. permitting the examination of a witness before the hearing;

j. setting the time for delivery of expert reports and any responding expert witness reports;

k. resolving objections to a proposed expert;

l. directing how expert evidence will be called;

m. directing experts to confer prior to the hearing;

n. hearing and deciding pre-hearing motions;

o. setting times for steps in the proceeding and/or delivery of documents;

p. setting time limits for oral submissions and page limits for written submissions;

q. directing cross-examinations on affidavits take place with only a court reporter or before the case management chair;

r. directing the order in which motions will be heard, that motions be heard together or that motions be heard with the merits; and

s. exploring and applying alternatives to traditional adjudicative or adversarial procedures.

9.5.3 Participants shall request a CMC as soon as they are aware of anything that may affect the timely and efficient conduct of a scheduled motion or hearing.

Case Management in Writing

9.6.1 A case management chair may make a case management direction at any time on their own initiative or following written communications or submissions from participants.

Rule 10 – Adjournments

10.1.1 Once hearing or motion dates are scheduled, parties are expected to be ready to proceed on those dates. Adjournments are only granted where it is necessary for a fair hearing, even when the parties consent.

10.1.2 A request to adjourn must be made in writing as soon as the need for it arises, unless a written request is impossible. The requestor must explain why the adjournment is necessary, identify the exceptional circumstances supporting the request, and include the other party's position and availability for alternate hearing dates or explain why it was impossible to obtain that information from the other party.

10.1.3 The Tribunal may include terms and conditions when granting an adjournment.

10.1.4 The Tribunal may order a party that was granted an adjournment within 10 days of the date on which the hearing was scheduled to begin to pay costs under Rule 17.2.

Rule 11 – Motions

11.1.1 A motion shall be made by notice of motion using Form 11 unless the nature of the motion or circumstances make a notice of motion unnecessary, or the case management chair directs otherwise.

11.1.2 Each participant's oral submissions on a motion shall not exceed one hour, except with the Tribunal's permission.

11.1.3 Where a moving party does not meet a motion deadline or attend the motion, the motion may be deemed withdrawn.

Motion Materials

11.2.1 Evidence on a motion shall be by affidavit. Cross-examination on the affidavit occurs at the hearing of the motion unless the Tribunal directs otherwise.

11.2.2 The moving party shall file a motion record that includes the notice of motion and affidavits in support of the motion. The moving party may also file a factum and book of authorities.

11.2.3 The moving party shall prepare and file a draft order using Form 15.

11.2.4 The responding party may file a responding motion record containing any responding affidavits, and a responding factum and book of authorities.

11.2.5 No factum shall exceed 30 pages except with the Tribunal's permission.

11.2.6 Deadlines for delivering and filing motion materials shall be set at a case management conference.

Motion for Documents from a Third Party

11.3.1 A notice of motion seeking documents from a third party must explain how the documents sought are likely relevant to an issue in the proceeding or to the competence of a witness to testify in the hearing, and why their production is necessary in the interest of justice.

11.3.2 The requestor shall deliver the notice of motion to the third party holding the records, together with a summons requiring their attendance on the motion date and attendance money. The summons must be served at least 21 days before the motion date.

11.3.3 College counsel shall deliver, on behalf of the moving party, the summons and motion materials to the person whose records are the subject of the motion.

11.3.4 Third party records ordered produced shall only be shared or distributed for the purposes of the proceeding or as required by law, unless the Tribunal orders otherwise. The Tribunal may place additional conditions on the use of third party records.

11.3.5 The Tribunal may make an order addressing a breach of rule 11.3.4. An intentional breach of Rule 11.3.4 may constitute unreasonable and bad faith conduct for the purposes of rule 17.1.1.

Rule 12 – Hearing Preparation

Summons

12.1.1 A party may request a summons from the Tribunal Office in accordance with the Practice Direction on Summonses.

12.1.2 Service of the summons on the witness and payment of the necessary attendance money is the responsibility of the party requesting the summons.

Agreed Facts

12.2.1 The Tribunal shall accept and rely on any facts agreed to by the parties without further proof or evidence.

12.2.2 The parties' agreed statement of facts shall be filed with the Tribunal Office as soon as possible after agreement is reached and, in any event, no later than seven days before the merits hearing begins.

12.2.3 An agreed statement of facts forms part of the public record from the time it is filed and shall not be read into the record at a hearing.

Requests to Admit

12.3.1 A party may deliver to the other party a request to admit using Form 12A asking the other party to admit the truth of facts or the authenticity of documents for the purposes of the Tribunal proceeding.

12.3.2 The other party must deliver a completed response to the request to admit using Form 12B no later than 30 days after the date the request to admit was delivered, unless the Tribunal directs otherwise.

12.3.3 A party who fails to respond to the request to admit or whose response fails to specifically deny or refuse to admit the truth of a fact or the authenticity of a document, is deemed, for the purposes of the Tribunal proceeding, to admit the truth of the facts or the authenticity of the documents.

12.3.4 A party who received a request to admit and who does not attend the hearing is deemed to admit, for the purposes of the Tribunal proceeding, the truth of the facts or the authenticity of the documents mentioned in the request to admit, despite having delivered a response.

12.3.5 An admission made in response to a request to admit or a deemed admission may be withdrawn on consent or with the Tribunal's permission.

12.3.6 If a party denies or refuses to admit the truth of a fact or the authenticity of a document after receiving a request to admit, and the fact or document is subsequently proved, the Tribunal shall take the denial or refusal into account in exercising its discretion respecting costs.

12.3.7 A request to admit the truth of facts under this rule may only be delivered where the other party, after receiving notice, has not indicated any intention to participate in the proceeding or the Tribunal has given permission. A request to admit the authenticity of documents may be delivered in any circumstance.

12.3.8 A request to admit may not be delivered less than 30 days before the scheduled date of the hearing.

Documents, Witness Statements and Hearing Brief

12.4.1 No later than 60 days after providing disclosure, the College shall deliver to the registrant a list of all documents it may use in evidence, a list of intended witnesses and a summary of each witness's intended evidence. Summaries may consist of a prior statement.

12.4.2 No later than 120 days after receiving disclosure, the registrant shall deliver to the College a list of all documents they may use in evidence, a copy of any document on the list that has not already been produced, a list of intended witnesses and a summary of each witness's intended evidence. Summaries may consist of a prior statement.

12.4.3 No later than seven days before the hearing, each party shall deliver to the other party and file with the Tribunal a hearing brief containing each document and the witness list.

12.4.4 The Tribunal may refuse to allow a party to rely on anything that was not delivered or filed as required by this rule or a Tribunal order.

12.4.5 A hearing brief is not evidence and does not form part of the public record.

Experts

12.5.1 No later than 60 days following the first case management conference, the College shall deliver to the registrant any expert reports on which it intends to rely.

12.5.2 No later than 90 days after the College confirms it has delivered all expert reports it intends to provide, except for reply reports, the registrant shall deliver to the College any expert reports on which the registrant intends to rely.

12.5.3 A party who wishes to offer a witness as an expert shall ask the witness to complete Form 12C and shall inform the proposed witness of their duty to assist the Tribunal on matters within their expertise and that this duty overrides any obligation to the person from whom they receive instructions or payment.

12.5.4 Any responding expert report shall be delivered to the other party no later than 60 days after receiving the report to which it responds.

12.5.5 An expert report shall contain the witness's signed Form 12C and the:

a. witness's name, contact information and area of expertise;
b. witness's qualifications, education and practice experiences in their area of expertise;
c. instructions provided to the witness in relation to the proceeding;
d. areas and/or issues on which the Tribunal is asked to qualify the witness as an expert and their opinion is sought; and
e. witness's opinion on each issue and reasons for their opinion, including:
    i. a description of the factual assumptions on which the opinion is based;
    ii. a description of any research conducted by the expert that led them to form the opinion; and
    iii. a list of every document, if any, reviewed by the expert in forming the opinion.

12.5.6 A party that objects to the admissibility of some or all evidence set out in an expert report, whether based on qualifications, relevance and/or impartiality shall advise the other party and the Tribunal of their objection no later than 60 days a of receiving it.

Treating Physicians

12.6.1 A treating physician who testifies only about treatment provided is not required to prepare an expert report.

12.6.2 A party calling a treating physician as a witness shall provide the records and notes to the other party as soon as possible.

Illegible Notes

12.7 A party shall transcribe any illegible notes and records for the other party on request.

Rule 13 – Registrant Applications to the Tribunal

Application for Removal of Information from the Public Register

13.1.1 To make a request under s. 23 (11) of the Code, the registrant must deliver and file an application for removal of information from the public register using Form 13A and an application record containing the documents on which the registrant intends to rely, including a copy of the Tribunal's decision and reasons. The application must:

a. explain why the registrant believes the information to be removed is no longer relevant to their suitability to practise;

b. explain why the registrant believes removal of the information outweighs the desirability of public access to the information in the interest of any person affected or the public interest, and

c. confirm the information to be removed does not relate to disciplinary proceedings concerning sexual abuse as defined in s. 1(3) of the Code.

Application for Reinstatement

13.2.1 The registrant must complete an application form using Form 13B, including supplemental questions required by the College, if applicable, deliver it to the College and file it with the Tribunal Office.

13.2.2 The Tribunal will not process the application for reinstatement and send it to the Registrar for referral unless:

a. the application is made within the time set out in s. 72(2) or (3) of the Code; and

b. the registrant has paid the application fee required by s. 1(c) of By-Law 2: Fees and Remuneration.

13.2.3 Within 60 days of filing the completed application form, the registrant must deliver and file a notice of application using Form 13C. The notice of application must:

a. set out the order sought including any proposed terms, conditions or limitations; and

b. explain the reasons for the application describing, where applicable:

   i. any relevant changes in circumstances since the time of revocation or suspension;

   ii. the registrant's success at rehabilitation, including their degree of insight into past inappropriate conduct, current mental health and future prognosis;

iii. attempts at restitution, if any;

iv. current knowledge, skill and judgment; and

v. present character.

13.2.4 Within 90 days of filing the notice of application, the registrant must deliver and file an application record. The application record must contain:

a. the application for reinstatement and the notice of application;

b. CPIC criminal record and judicial matters check - Level 2;

c. an undertaking to obtain Professional Liability Protection;

d. a certificate of good standing from every jurisdiction outside Ontario in which they currently hold or held a licence since suspension or revocation;

e. the record, including the transcript, of the hearing where the registrant's certificate of registration was ordered suspended or revoked;

f. any previous application for reinstatement including the record, transcripts and the Tribunal's decision; and

g. any other documents on which the registrant intends to rely.

13.2.5 Where the notice of application is not filed within 120 days of filing the application form, or the application record is not filed within 180 days of filing the notice of application, the application will be deemed withdrawn and the Tribunal will close its file. The registrant will be notified 30 days before the file is closed.

Application to Vary, Suspend or Cancel a Tribunal Order

13.3.1 The Tribunal may vary, suspend or cancel a Tribunal order that continues in effect where:

a. there are new facts arising or discovered after the order was made or a material change in circumstances has occurred since the order was made; and

b. the change to the order would be in the public interest.

13.3.2 To apply to vary, suspend or cancel a Tribunal order, the applicant must deliver and file a notice of application using Form 13D, together with an application record containing the documents on which the applicant intends to rely, including a copy of the Tribunal's reasons for the order. The notice of application must set out how the application meets the criteria set out in rule 13.3.1.

13.3.3 An application to vary, suspend or cancel a Tribunal order does not stay that order.

Case Management Conference

13.4.1 Once an application record is filed, the Tribunal will schedule a CMC to determine the next steps in the application, including delivery of responding materials and scheduling of hearing dates.

Rule 14 – Hearings

Hearing Format

14.1.1 A hearing or any part of a Tribunal hearing may be held in person anywhere in Ontario or remotely as the Tribunal directs, in the format that best ensures a proportionate, fair and efficient proceeding.

14.1.2 A remote hearing shall be held by videoconference unless the Tribunal directs otherwise.

14.1.3 Factors relevant to determining hearing format include:

a. the Tribunal's public interest mandate;
b. the parties' consent;
c. the nature, significance and complexity of the issues, including whether credibility is in question;
d. accessibility by participants and the public; and
e. facilitating participation by persons who have been historically disadvantaged within the legal and/or medical system, in particular Indigenous peoples and communities and vulnerable witnesses.

Hearing Management

14.2.1 The hearing panel or its chair may:

a. schedule or adjourn an appearance;
b. set timelines or deadlines for steps in the hearing;
c. direct parties to make written submissions;
d. set time limits for oral submissions and page limits for written submissions; and
e. give any other procedural directions necessary to ensure the hearing proceeds fairly and effectively.

14.2.2 Hearing management may take place at a hearing management conference (HMC) with the panel or its chair.

14.2.3 The panel or its chair may make a case management direction at any time on their own initiative or following written communications or submissions from participants.

14.2.4 The panel shall not permit cross-examination that is abusive, repetitive or otherwise inappropriate. The panel may limit further examination or cross-examination where satisfied that the examination or cross-examination is sufficient to disclose fully and fairly all matters relevant to the issues in dispute.

Pleas of No Contest

14.3.1 A registrant may plead no contest to one or more allegations. A plea of no contest is not an admission of the facts or an admission that the facts constitute professional misconduct and/or incompetence, for the purpose of the Tribunal proceeding or any other proceeding.

14.3.2 A registrant who pleads no contest agrees that, for the purposes of the Tribunal proceeding and not for the purpose of any other proceeding:

a. the facts contained in a statement of uncontested facts shall be accepted and relied upon by the panel;

b. the panel may find that the facts constitute professional misconduct or incompetence or both; and

c. the panel may make a finding on the allegations without hearing other evidence.

14.3.3 The registrant or their representative shall confirm on the record their agreement with the provisions of Rule 14.3.2.

14.3.4 A registrant who pleads no contest may not provide evidence on the merits but may provide evidence on penalty.

Vulnerable Witnesses

14.4.1 Where it would facilitate a full and candid account of a witness's evidence or otherwise be in the interests of justice, the Tribunal may do one or more of the following:

a. permit a support person to sit near a witness while the witness testifies. The Tribunal may direct the conduct of the support person during the witness's testimony,

b. allow a witness to testify by videoconference or from behind a screen or other device that would allow the witness not to see the registrant (when the hearing is conducted in person) or direct the registrant to turn off their video feed or to remain off screen during the witness's testimony (when the hearing is conducted remotely). At all times the Tribunal, registrant and counsel must be able to see the witness,

c. order that a registrant not personally cross-examine a witness and in such a case, shall appoint counsel to conduct the cross-examination.

14.4.2 In deciding whether to make an order, the Tribunal shall consider:

a. the age of the witness;

b. the witness's mental or physical disabilities, if any;

c. the nature of the allegations;

d. the nature of any relationship between the witness and the registrant;

e. whether the order would assist the witness's security or protect them from intimidation or retaliation;

f. the public interest in encouraging the reporting of professional misconduct and the participation of patients and other witnesses in the disciplinary process; and

g. any other factors the Tribunal considers relevant.

14.4.3 Where a witness is 18 or under or has difficulty communicating their evidence due to a disability, they shall be accommodated as set out in rule 14.4.1 unless the witness declines.

Evidence of Complainant's Sexual History

14.5.1 In proceedings relating to allegations of sexual abuse or other sexual misconduct, evidence that the complainant has engaged in sexual activity, whether with the registrant or with any other person, is not admissible to support an inference that, by reason of the sexual nature of that activity, the complainant is:

a. more likely to have consented to the sexual activity that forms the subject matter of the allegations; or

b. less worthy of belief.

14.5.2 In proceedings relating to allegations of sexual abuse or other sexual misconduct, evidence shall not be adduced by or on behalf of the registrant that the complainant has engaged in sexual activity other than the sexual activity that forms the subject matter of the allegations, either with the registrant or with any other person, unless the Tribunal determines that the evidence:

a. is not being called for the purpose of supporting an inference described in rule 14.5.1;

b. is relevant to an issue at the hearing;

c. is of specific instances of sexual activity; and

d. has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.

14.5.3 In determining whether evidence is admissible under rule 14.5.2, the Tribunal shall consider:

a. the interests of justice, including the right of the registrant to make full answer and defence;

b. society's interest in encouraging the reporting of sexual misconduct by registrants;

c. whether there is a reasonable prospect that the evidence will assist in arriving at a just determination in the case;

d. the need to remove from the fact-finding process any discriminatory belief or bias;

e. the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility;

f. the potential prejudice to the complainant's personal dignity and right of privacy;

g. the right of the complainant and of every individual to personal security and to the full protection and benefit of the law; and

h. any other factor that the Tribunal considers relevant.

14.5.4 The Tribunal may direct that a motion under this rule be decided before the merits hearing begins.

Rule 15 – Orders and Reasons

Draft Orders

15.1.1 Any party may prepare a draft order using Form 15. A draft order is treated as a submission and the Tribunal may amend it. A draft order is not part of the public record of the proceeding.

Orders Effective When Made

15.2.1 A Tribunal order becomes effective when it is made on the record, even if a written version has not yet been prepared or signed.

Correction of Errors

15.3.1 The Tribunal Office or a member of the panel may correct typographical errors, errors of calculation or similar minor errors in an order or reasons.

Rule 16 – Reprimands

16.1.1 Where the parties have made a joint submission on penalty which includes a reprimand, the reprimand will be delivered orally at the completion of the hearing.

16.1.2 Delivery of a reprimand does not affect a registrant's right to appeal nor arguments that can be raised on appeal. Where a registrant nevertheless asks that the reprimand await the outcome of the appeal, the registrant shall advise the Tribunal as soon as possible and, in any event, no more than 30 days after receiving the Tribunal's penalty order.

Rule 17 – Costs

17.1.1 In addition to the circumstances set out in s. 53 and s. 53.1 of the Code, the Tribunal may make an order of costs if it finds the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious, or a party has acted in bad faith.

17.1.2 Failure to comply with these rules or the Tribunal's orders or directions may be a factor in assessing costs.

Late Adjournments

17.2.1 Costs may be awarded against a party granted an adjournment within 14 days of the date on which the hearing was scheduled to begin. When deciding whether to award costs for this reason the Tribunal shall consider:

a. whether the late adjournment could have been avoided;

b. the number of hearing days lost;

c. the other party's costs and expenses arising from the late adjournment; and

d. whether the party's conduct in seeking the adjournment was unreasonable, frivolous or vexatious, or in bad faith.

Requesting Costs

17.3.1 Where the College seeks costs at or below the rate in Tariff A, it is not required to provide a bill of costs.

17.3.2 Where the College seeks costs above the rate in Tariff A or where the Tribunal has no tariff, it must provide a bill of costs including invoices or receipts for any disbursements or out of pocket expenses claimed.

17.3.3 If a registrant requests costs from the College under s. 53 of the Code they shall file a motion no later than 30 days from the date of the Tribunal's final decision or the withdrawal of the allegations. The motion record need not include a bill of costs.

17.3.4 A motion under rule 17.3.3 shall be heard in two stages. In the first stage, the panel will decide whether the College is required to pay costs. In the second stage, if costs have been awarded, the panel will decide on the amount of costs. Prior to the second stage, the registrant must provide a bill of costs including invoices or receipts for any disbursements or out of pocket expenses claimed.

Rule 18 – Appeals and Judicial Reviews

18.1.1 A party that appeals a Tribunal decision shall file a copy of the notice of appeal with the Tribunal Office at the same time it is served on the other party.

18.1.2 A notice of application for judicial review of a Tribunal decision must be served on the Tribunal as required by the *Judicial Review Procedure Act*.

Tariff A: Costs and Expenses for the College to Conduct Hearing

Ontario Audiologists and Speech-Language Pathologists Discipline Tribunal

No Tariff

Ontario Chiropodists and Podiatrists Discipline Tribunal

No Tariff

Ontario Massage Therapists Discipline Tribunal

Costs and expenses of a full-day hearing: $8,778

Costs and expenses of a half-day hearing: $5,852

Ontario Occupational Therapists Discipline Tribunal

No Tariff

Ontario Physicians and Surgeons Discipline Tribunal

Costs and expenses of a full-day hearing: $10,370

Costs and expenses of a half-day hearing: $6,000

Ontario Registered Psychotherapists Discipline Tribunal

Costs and expenses of a full-day hearing (first): $7,600

Costs and expenses of a full-day hearing (subsequent day): $5,800

Costs and expenses of a half-day hearing: $4,700

Appendix A: Rules that Apply to Individual Tribunals

Ontario Audiologists and Speech-Language Pathologists Discipline Tribunal

1. The effective date of these rules is June 15, 2024.

Ontario Chiropodists and Podiatrists Discipline Tribunal

1. The effective date of these Rules is January 1, 2025.

Ontario Massage Therapists Discipline Tribunal

1. The effective date of these Rules is April 14, 2025.

Ontario Occupational Therapists Discipline Tribunal

1. The effective date of these Rules is March 10, 2025.

Ontario Physicians and Surgeons Discipline Tribunal

1. The effective date of these Rules is January 1, 2023.

Ontario Registered Psychotherapists Discipline Tribunal

1. The effective date of these Rules is May 15, 2024.