
COLLEGE OF VOCATIONAL REHABILITATION PROFESSIONALS
DISCIPLINE PROCEDURE

1. In this Procedure,

“Board” means the Board of Directors, current or past, of the College of Vocational Rehabilitation Professionals of Ontario

“By-Laws” means the By-Laws of the College of Vocational Rehabilitation Professionals of Ontario

“College” means the College of Vocational Rehabilitation Professionals of Ontario

“Incapacitated or incapacity” means, that the Member is suffering from a physical or mental condition or disorder that makes it desirable in the interests of the public that the Member’s certificate of registration be subject to terms, conditions or limitations or that the Member no longer be permitted to be a member of the College

“Incompetence” means, a Member of the College has displayed in his or her professional responsibilities a lack of knowledge, skill or judgment, or disregard for the welfare of a person or persons of a nature or extent that demonstrates that the Member is unfit to continue to carry out his or her professional responsibilities or that the Member’s certificate of registration should be subject to terms, conditions or limitations or should be revoked

“Member” means a member of the College

“Procedures” means the Procedures developed by the College pursuant to the By-Laws in relation to Registration, Complaints, Discipline, Professional Practice, Fitness to Practice or any other Procedures developed by the College from time to time

“Profession” means the profession of vocational rehabilitation

“Professional misconduct” means conduct that contravenes the By-Laws, an order of a College Committee, or conduct that is defined as being professional misconduct in the By-Laws or by College Policy, Guideline or Procedure

Panel for Discipline Hearing

-
2. The chair of the Discipline Committee shall select a panel from among the Members of the Committee to hold a hearing of allegations of a Member's professional misconduct or incompetence referred to the Committee by the Complaints Committee.
 3. A panel shall be composed of at least three (3) and no more than five (5) persons.
 4. No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing.
 5. Three (3) members of a panel constitute a quorum.

Panel Members Deemed to Continue

6. A Member of a panel who ceases to be a Member of the Discipline Committee after a hearing of a matter has commenced before the panel shall be deemed, for the purposes of dealing with that matter, to remain a Member of the panel until the final disposition of the matter.

Notice of Hearing

7. No panel shall hold a hearing unless a Member is given notice of the allegations to be heard at least 90 days prior to the commencement of the Hearing.
8. A panel may at any time permit a notice of hearing of allegations against a Member to be amended to correct errors or omissions of a minor or clerical nature if it is of the opinion that it is just and equitable to do so and the panel may make any order it considers necessary to prevent prejudice to the Member.

Parties

9. The College and the Member against whom allegations have been made are parties to a hearing.

Disclosure of Evidence

10. Evidence against a Member is not admissible at a hearing of allegations against the Member unless the Member is given, at least twenty (20) calendar days before the hearing,

-
- i. in the case of written or documentary evidence, an opportunity to examine the evidence;
 - ii. in the case of evidence of an expert, the identity of the expert and a copy of the expert's written report, or if there is no written report, a written summary of the evidence; or
 - iii. in the case of evidence of a witness, the identity of the witness.
 11. A panel may, in its discretion, allow the introduction of evidence that is inadmissible under Section 10 and may make directions it considers necessary to ensure that the Member is not prejudiced.
 12. Evidence of an expert led by a person other than the College is not admissible unless the person gives the College, at least twenty (20) calendar days before the hearing, the identity of the expert and a copy of the written report or if there is no written report, a written summary of the evidence.
 13. A panel may, in its discretion, allow the introduction of evidence that is inadmissible under Section 12 and may make directions it considers necessary to ensure that the College is not prejudiced.

No Communication by Panel Members

14. No Member of a panel holding a hearing shall communicate outside the hearing, in relation to the subject matter of the hearing, with a party or the party's representatives unless the other party has been given notice of the subject matter of the communication and an opportunity to be present during the communication.

Legal Advice

15. If a panel obtains legal advice with respect to a hearing, it shall make the nature of the advice known to the parties and they may make submissions with respect to the advice.

Hearings Closed

16. Hearings shall not be open to the public.

-
17. The panel may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.
 18. No order shall be made under Section 17 that prevents the publication of anything that is contained in the register and is otherwise available to the public.

Transcript of Hearings

19. The panel holding a hearing shall ensure that,
 - i. the oral evidence is recorded;
 - ii. copies of the transcript of the hearing are available to a party on the party's request at the party's expense; and
 - iii. copies of the transcript of any part of the hearing that is not the subject of an order prohibiting publication are available to any person at that person's expense.
20. If a transcript of a part of a hearing that is the subject of an order prohibiting publication is filed with a court in respect of proceedings, only the court and the parties to the proceedings may examine it unless the court orders otherwise.

Admissibility of evidence

21. Nothing is admissible at a hearing that would be inadmissible in a court in a civil action and the findings of a panel shall be based exclusively on evidence admitted before it.

Members of panel who participate

22. Only the Members of a panel who were present throughout a hearing shall participate in the panel's decision.

Professional misconduct

23. A panel shall find that a Member has committed an act of professional misconduct if:

-
- i. the Member has been found guilty of an offence that is relevant to the Member's suitability to practice;
 - ii. the governing body of a profession in a jurisdiction other than Canada has found that the Member committed an act of professional misconduct that would, in the opinion of the panel, be an act of professional misconduct as defined in the Procedures, Policies or the By-Laws;
 - iii. the Member has sexually abused a client;
 - iv. the Member has committed an act of professional misconduct as defined in the College's Policies or the By-Laws; or
 - v. the Member has failed to co-operate with another Committee of the College.

Powers of the Discipline Committee

24. If a panel finds a Member guilty of professional misconduct it may make an order doing any one or more of the following:
 - i. directing the Registrar to revoke any certificate of registration held by the Member;
 - ii. directing the Registrar to suspend any certificate of registration held by the Member for a specified period of time;
 - iii. directing the Registrar to impose specified terms, conditions and limitations on any certificate of registration held by the Member for a specified or indefinite period of time;
 - iv. requiring the Member to appear before the panel to be reprimanded, admonished or counseled by the panel or its delegate and, if considered warranted, directing that the fact of the reprimand, admonishment or counselling be recorded on the register for a specified or an unlimited period;
 - v. requiring the Member to pay to the College the costs of the investigation and all costs of the hearing;
 - vi. directing that the finding and the order of the panel be published, in detail or in summary, with or without the name of the Member, in the official publication of the College and in any other manner or medium that the panel considers appropriate in the particular case.

-
25. In making an order under Subsections 24 (ii), (iii) or (iv), a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a Member's certificate of registration, including but not limited to terms requiring the successful completion by the Member of specified courses of study.
 26. In making an order revoking or suspending a certificate of registration or imposing terms, conditions or limitations on a certificate of registration, the Discipline Committee may fix a period during which the Member may not apply under the Registration Procedure.
 27. A panel may suspend the effect of an order made under Subsection 23 (ii) for a specified period and on specified conditions.
 28. If a panel finds a Member has committed an act of professional misconduct by sexually abusing a client, the panel shall do the following in addition to anything else the panel may do under Section 24:
 - i. reprimand the Member;
 - ii. revoke the Member's certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - a. sexual intercourse,
 - b. genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - c. masturbation of the Member by, or in the presence of, the client,
 - d. masturbation of the client by the Member,
 - e. encouragement of the client by the Member to masturbate in the presence of the Member.
 29. Section 28 does not apply if the client was the member's spouse at the relevant time.
 30. For the purpose of Section 29,

“spouse” means,

 - (a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage.

31. Before making an order under Section 28, the panel shall consider any written statement that has been filed, and any oral statement that has been made to the panel, describing the impact of the sexual abuse on the client. Such a statement:
 - i. may be made by the client or by his or her representative; and
 - ii. shall not be considered by a panel unless a finding of professional misconduct has been made.
32. When a written statement is filed, the panel shall, as soon as possible, have copies of it provided to the Member, to his or her counsel and to the College.

Incompetence

33. A panel shall, after a hearing, find a Member to be incompetent if, in its opinion, the Member has displayed in his or her professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the client of a nature or to an extent that demonstrates that the Member is unfit to continue to practice or that a certificate of registration held by the Member should be made subject to terms, conditions or limitations.
34. If a panel finds a Member is incompetent, it may make an order doing any one or more of the following:
 - i. directing the Registrar to revoke the Member's certificate of registration;
 - ii. directing the Registrar to suspend the Member's certificate of registration;
 - iii. directing the Registrar to impose specified terms, conditions and limitations on the Member's certificate of registration for a specified or indefinite period of time.
35. In making an order under Section 33, a panel may specify criteria to be satisfied for the removal of a suspension or the removal of terms, conditions and limitations imposed on a Member's certificate of registration.

Costs

36. In an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct or finds to be incompetent to pay all or part of the following costs and expenses:

-
- i. The College's legal costs and expenses.
 - ii. The College's costs and expenses incurred in investigating the matter.
 - iii. The College's costs and expenses incurred in conducting the hearing.
 37. Neither the member nor the complainant are entitled to any costs in relation to any proceeding.

Decision to Complainant

38. A panel shall give its decision and reasons in writing to the parties and, if the matter had been referred to the Discipline Committee by the Complaints Committee, to the complainant in the matter.

Release of Evidence

39. The Discipline Committee shall release documents and things put into evidence at a hearing to the person who produced them, on request, within a reasonable time after the matter in issue has been finally determined.

Publication of decisions

40. The College shall publish a panel's decision and its reasons, or a summary of its reasons, in its annual report and may publish the decision and reasons or summary in any other publication of the College.
41. In publishing a decision and reasons or summary under Section 40, the College shall publish the name of the Member who was the subject of the proceeding if,
 - i. the results of the proceeding may be obtained by a person from the register; or
 - ii. the Member requests the publication of his or her name.

Practice and Procedure

42. The Discipline Committee may determine its own practice and procedure in relation to hearings and may make rules governing such practice and procedure and the exercise of its

powers in relation thereto that are not inconsistent with the By-Laws and the *Not-for-Profit Corporations Act, 2010* and may prescribe such forms as are considered advisable.

Application to Court

43. Upon proclamation of *the Not-for-Profit Corporations Act, 2010*, a Member who claims to be aggrieved because he or she was disciplined or because his or her membership was terminated or revoked may apply to the court pursuant to section 191 of that Act.