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# **The Affairs of the College Bylaw**

## **The College of Physicians and Surgeons of Manitoba**

(Enacted by the Councillors of the College of Physicians and Surgeons of Manitoba  
on November 22, 2018 repealing Bylaws 1, 2, 3, 3D, 4, 5, 6, 7, 8, 9, 10 and 11 under *The Medical Act*)

Effective Date January 1, 2019

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## PART A – DEFINITIONS

### Definitions

1. Terms that are defined in *The Regulated Health Professions Act* (“RHPA”) or the regulations have the same meaning in all parts of this Bylaw, unless specifically defined in this Bylaw.

2. The following definitions apply in this Bylaw:

“**Bylaw**” means a Bylaw of CPSM established under section 222 of the RHPA

“**certificate year**” means the period for which a certificate of practice is issued for a particular class of registrants

“**CPSM**” means the College of Physicians and Surgeons continued under section 8(b) of the RHPA

“**Councillor**” means a person serving on the Council of CPSM

“**elected Councillor**” means a person elected to Council under clauses 180(1)(a) or (c) of the RHPA

“**Executive Committee**” means the Executive Committee of CPSM as established under section 22(1)(b) of the RHPA

“**primary practice location**” means the primary location at which a registrant is carrying on the practice of medicine

“**regulations**” mean regulations applicable to CPSM made under the RHPA

“**RHPA**” means *The Regulated Health Professions Act*

## **PART B – ELECTIONS AND APPOINTMENTS**

### **Councillors Eligibility and Electoral Districts**

#### **Eligibility requirements for candidates**

3. To be eligible to be a candidate for election as a Councillor, a regulated registrant must meet all of the following requirements:
  - a. be on the voters list for that electoral district;
  - b. maintain their primary practice location in the electoral district in which they seek to be a candidate up to the election date;
  - c. be nominated as a candidate for election as set out in this Bylaw;
  - d. meet the requirements of s. 14 of the RHPA;
  - e. not be a current member of the Board of Director or Committee Member of Doctors Manitoba.

#### **Electoral Districts**

4. For the election of regulated registrants, Manitoba is divided into the four electoral districts described in Schedule A attached to this Bylaw.

#### **Number of Elected Councillors from each Electoral District**

5. The number of regulated registrants to be elected from each electoral district is:
  - a. 4 registrants from the Winnipeg electoral district;
  - b. 1 registrant from the North electoral district;
  - c. 1 registrant from the East electoral district; and
  - d. 1 registrant from the West electoral district.

## Elections

### Election Transition Provisions to Prevail

6. For the election of regulated registrants, the Election Transition provisions at section 110 shall prevail over the terms of this Bylaw until the election in 2022.
- 7.
- a. Commencing in 2020 and continuing every second year thereafter there must be an election of regulated registrants to Council on the following schedule:
    - 2020 - 3 Councillors from the Winnipeg Electoral District
    - 2020 - 1 Councillor from the West Electoral District
    - 2022 - 1 Councillors from the Winnipeg Electoral District
    - 2022 - 1 Councillor from the North Electoral District
    - 2022 - 1 Councillor from the East Electoral District
  - b. The President Elect of the Council, whether or not they have been re-elected or re-appointed as a council member, will be a member of the Council of CPSM.
  - c. A chart representing the composition of Council is:

Council Position	Number	Appointed	Elected	Other
Public Representative	3	Appointed by Council		
Public Representative	3	Appointed by Minister		
University of Manitoba	1	Appointed by University		
President	1			Ex Officio
Past President	1			Ex Officio
President Elect	1			Ex Officio
Associate Registrant	1		Elected by Associate registrants	
Winnipeg	4		Elected by Registrants	
North	1		Elected by Registrants	
East	1		Elected by Registrants	
West	1		Elected by Registrants	
<b>Total</b>	<b>18</b>			

### Election for Regulated Associate Registrants

8. Commencing in 2019 and continuing annually thereafter there must be an election for one Councillor from the regulated associate registrants.

### Procedures governing all elections, by-elections and run-off elections

9. The Registrar must supervise and administer all Council elections and may establish procedures for that purpose consistent with the Bylaws.
10. The Registrar must:
  - a. use electronic processes for the circulation of election notices, forms, ballots, nominations, other documentation, and the collection of votes must be by electronic ballot.
  - b. ensure that all methods of voting are secure and preserve the anonymity of the voters and the secrecy of their votes.
  - c. act as the returning officer in each election.
  - d. resolve any dispute or irregularity with respect to any nomination, ballot or election.

### Notice of Election

11. By no later than the fourth Tuesday in March preceding an election, the Registrar must circulate written notice of the election, the applicable voters list, the nomination form and nomination procedures to every regulated registrant or regulated associate registrant whose name is on the voters list for an election to be held that year.

### Voters List

12. The Registrar must prepare a voters list by no later than the fourth Tuesday in March in each year:
  - a. when an election of regulated registrants is required, for each electoral district in which an election is to be held, listing all regulated registrants whose business address is in that electoral district as of the date the voters list is prepared and who holds a current certificate of practice in one of the following classes:
    - i. full practising;
    - ii. provisional academic - s. 181 faculty;
    - iii. provisional academic - post-certification trainee;
    - iv. provisional specialty practice - limited;
    - v. provisional family practice - limited;
    - vi. provisional Manitoba Practice Assessment Program;
    - vii. provisional public health officer.
  - b. for a regulated associate registrants election, a voters list listing all regulated associate registrants who hold a current certificate of practice in one of the following classes:
    - i. educational medical student;
    - ii. educational physician assistant student;
    - iii. educational resident;
    - iv. educational resident limited;



- v. educational external or visiting student;
- vi. physician assistant full;
- vii. physician assistant academic – s. 181 faculty;
- viii. clinical assistant full.

### **Right to examine voters list**

13. Any CPSM registrant may examine the voters list prepared for an election at the CPSM office during office hours.

### **Correction of voters list**

14. Any registrant who believes that there is an error in the voters list may report the error to the Registrar. The Registrar must investigate and must correct any error found to exist.

### **Nominations**

15. The nomination of a candidate for election is valid only if:
- a. it is on the nomination form approved by the Registrar;
  - b. it is in writing, and names only one candidate;
  - c. for an election of:
    - i. regulated registrants, it is signed by at least two regulated registrants of CPSM who maintain a primary practice location in the same electoral district as the nominated registrant and whose names are on the voters list of regulated registrants;
    - ii. a regulated associate registrant, it is signed by at least two regulated associate registrants whose names are on the voters list of regulated associate registrants;
  - d. the nominee consents in writing to the nomination; and
  - e. the written nomination and consent are received by the Registrar on or before noon on the second Tuesday in April preceding the date of an election.

### **Election dates**

16. Any election of registrants to Council must be held on the first Tuesday in May. Ballots may be cast any time after the third Tuesday in April and the deadline for receipt of ballots in the election is noon on the first Tuesday in May.

### **Entitlement to vote**

17. Every regulated registrant whose name is on the voters list created for an election in an electoral district is entitled to vote in the election in that electoral district.

18. Every regulated associate registrant whose name is on the voters list created for an election of a regulated associate registrant is entitled to vote in that election.

### **Election Procedure**

19. For each election, by no later than the third Tuesday in April preceding the date of an election the Registrar must circulate to each registrant entitled to vote in an election of:
  - a. regulated registrants, a form of ballot that lists under each electoral district the names in alphabetical order of all candidates nominated for that electoral district;
  - b. a regulated associate registrant, a form of ballot that lists the names in alphabetical order of all candidates nominated;
  - c. voting instructions, including the date and time by which ballots must be received by the Registrar;
  - d. candidate biographical information in the form prescribed by the Registrar; and
  - e. such other material as may be required.

### **Invalid ballots**

20. A ballot is invalid that:
  - a. is not cast in accordance with the instructions circulated by the Registrar,
  - b. votes for more candidates than the number to be elected in the electoral district or the election as the case may be, or
  - c. is not received by the Registrar before the deadline for receipt of ballots in the election.

### **Right to be present**

21. Any of the candidates for election may be present at the tabulation of the election results.

### **Acclamation**

22. The Registrar must declare that those nominated are elected by acclamation, if:
  - a. for an election of a regulated associate registrant, only one regulated associate registrant is nominated,
  - b. for an election of regulated registrants, the number of candidates nominated in an electoral district does not exceed the number to be elected in that district.

### Procedure in the event of a tie

23. In the event of a tie vote, a run-off election must take place between the tied candidates, no later than fourteen days after the election date. The election procedure in Sections 17 to 20 applies to a run-off election, with the necessary modifications to dates and procedures implied.

### Insufficient candidates

24. If insufficient candidates are nominated to elect the required number of Councillors, the Executive Committee must, within 45 days following the date nominations were due, appoint to fill the vacancy:
  - a. For regulated registrants, a regulated registrant who meets the eligibility criteria for nomination in the electoral district with insufficient candidates;
  - b. For a regulated associate registrant, a regulated associate registrant who meets the eligibility criteria for nomination as a regulated associate registrant.

### Election results

25. The Registrar must declare elected the candidates with the highest number of votes, up to the number to be elected in the electoral district or the regulated associate registrant election as the case may be.
26. The Registrar must certify in writing as soon as possible after an election the names of the person or persons who have been elected and must give written notice of the election results to registrants.

### Challenge to Election

27. Challenge to Election
  - a. Any registrant who lawfully voted in the election may file a written petition challenging the election of any candidate and stating the grounds for the challenge. The Registrar must provide a copy of the challenge to the candidate whose election is disputed.
  - b. The Executive Committee must hear the challenge, and the registrant challenging and the candidate whose election is disputed must be given notice of the date, time and place of the hearing.
  - c. Following the hearing, the Executive Committee must report to the Council, which must declare whether the candidate whose election is disputed was duly elected. If the decision is that the candidate was not duly elected, Council must declare another eligible candidate elected.

## Failure to comply

28. Any accidental failure to comply with the Bylaw or procedures set for elections does not invalidate an election.

## Appointments

### University Faculty selection

29. By no later than the first Tuesday in April in any year in which the Rady Faculty of Health Sciences, Max Rady College of Medicine selection of a representative to Council is required, the Registrar must request that the Dean of the Max Rady College of Medicine notify the Registrar of the name of the faculty member selected as Councillor and their alternate when they are not available, pursuant to s. 180(1)(d) of the RHPA.

### Appointment of Public Representatives by Minister

30. By no later than the first Tuesday in April in any year in which the ministerial appointment of public representatives to Council is required, the Registrar must request that the Minister notify the Registrar of the names of the ministerial appointments to Council.

### Appointment of Public Representatives by the Council

31. On or before the first Tuesday in April in any year which Council is to appoint a public representative, the Executive Committee shall submit to Council one or more candidates who meet the criteria established by Council as to identified skills or attributes required of public representatives.
32. If more candidates are nominated than there are positions to be filled, the Registrar must conduct an election by Councillors of public representatives according to the following process:
  - a. no later than the fourth Tuesday in April preceding the date of an election, provide to each Councillor:
    - i. a form of ballot that lists the names in alphabetical order of all candidates nominated;
    - ii. voting instructions, including the date and time by which votes must be received by the Registrar; and
    - iii. such other material as may be required.
  - b. The Registrar must declare elected the candidate(s) with the greatest number of votes up to the number required to be elected and report the results to Council.
  - c. In the event of a tie vote, the President shall cast the deciding vote.

## Vacancies on Council

33. If an elected Councillor or a Councillor appointed by Council ceases to hold office before the end of their term, the Council shall conduct a by-election in the same manner as a scheduled election, with all necessary modifications to dates and procedures implied.

## Term of office

34. Unless elected to fill a vacancy, the term of office of Councillors begins immediately after the annual meeting of Council following the election and after the Councillor has signed the oath of office, and is:
- For regulated registrants, including the Max Rady College of Medicine appointee, a four-year term;
  - For regulated associate registrants, a one-year term;
  - For public representatives, a four-year term, or, for government appointed public representatives, the term designated by the government to a maximum of four years.
35. Councillors elected to fill a vacancy take office immediately upon election and signing the oath of office and hold office for the unexpired portion of the vacant term.

## Council registrants ceasing to hold office

36. An elected Councillor or a Councillor appointed by Council ceases to hold office if the Councillor:
- resigns by written notice delivered to the Registrar;
  - ceases to be eligible for election or appointment to the Council, unless the Councillor loses eligibility only by reason of parental leave or illness;
  - is censured pursuant to section 102 of the RHPA or an Inquiry Panel makes a finding against the registrant pursuant to section 124 of the RHPA;
  - is absent, without cause, from three consecutive Council meetings, unless previously excused by the Council;
  - is removed from Council in accordance with s. 20(5) of the RHPA governing breach of the Oath of Office or is removed for breach of the Councillor and Committee Code of Conduct located in the Governance Policy;
  - dies; or
  - is determined to be permanently mentally incapacitated;
  - becomes a member of the Board of Directors or Committee of Doctors Manitoba.

## CPSM Officers

### Officers

37. The officers of CPSM are:

- a. The President;
  - b. The President-Elect, who will also hold the office of Treasurer;
  - c. The Past President; and
  - d. The Registrar
38. The officers must:
- a. throughout their term of office be regulated registrants of CPSM with a current certificate of practice;
  - b. perform the duties imposed and exercise the powers given to them by the RHPA, the regulations and the Bylaws, or assigned to them by the policies of Council.

### **Appointment of President-Elect**

39. The President-Elect must be appointed from Councillors who are regulated registrants, according to the following process:
- a. Commencing in 2018, in every second year, the Executive Committee must present a report to Council prior to December, recommending at least one nominee for the office of President-Elect.
  - b. In each year when appointment to the office of President-Elect is required, the Executive Committee's report must be included in the agenda material distributed to Councillors in advance of the December Council meeting.
  - c. At the December Council meeting, the Chair must ask for nominations from the floor for the office of President-Elect, provided that only Councillors present (either in person or through electronic means) are eligible to nominate from the floor, and that a Councillor may nominate himself or herself as a candidate for President-Elect.
  - d. If more than one candidate is nominated for President-Elect, the Registrar must conduct an election by Councillors according to the following process:
    - i. No later than the first Wednesday following the December Council meeting, provide to each Councillor:
      1. a form of ballot that lists the names in alphabetical order of all candidates nominated;
      2. voting instructions, including the date and time by which votes must be received by the Registrar; and
      3. such other material as may be required.
    - ii. Upon receipt of a vote, the Registrar must be satisfied that it is the vote of a Councillor entitled to vote.
    - iii. The candidate for whom the highest number of votes is cast will be appointed as President-Elect.
    - iv. In the event of a tie vote, the President shall cast the deciding vote.
    - v. Any of the candidates for President-Elect may be present at the counting of the ballots.
    - vi. The Registrar must resolve any dispute or irregularity with respect to any nomination, ballot or election.

**Term of office – President and President-Elect**

40. The President-Elect and President each hold office for a maximum term of two years except in exceptional circumstances and approved by Council.
41. At the end of their two-year term as President-Elect, the President-Elect assumes the office of the President for a two-year term and at the end of the two-year term as President, assumes the office of Past-President for a two-year term.

**By-election for President-Elect**

42. If the office of the President becomes vacant, the President-Elect becomes President for the unexpired term and a by-election must be conducted for the office of President-Elect.
43. The procedure set forth in section 39 of this Bylaw applies to any by-election for a President-Elect, with all necessary modifications as to date and procedure implied.

## **PART C – COUNCIL MEETINGS AND MEETINGS OF REGISTRANTS**

### **Council Meetings**

#### **Regular meetings**

44. Council must meet at least four times in each calendar year.

#### **Special meetings**

45. The President may call a special meeting of Council, and must convene a special meeting of Council upon receipt of a written request by at least four Councillors, stating the nature of the business that is proposed to be conducted at the special meeting

#### **Notice of Council meeting**

46. The President must provide at least 14 days' notice of a meeting of Council to all Councillors, registrants of CPSM and the public, unless shorter notice is required to conduct urgent business.
47. Notice of a Council meeting may be provided to registrants and to the public by posting a notice on CPSM website. The Council agenda and materials are to be included in the notice on CPSM website, except where a private meeting is necessary to consider matters of a confidential nature or of a personal nature concerning an individual in accordance with section 25 of the Regulated Health Professions Act.
48. The accidental omission to deliver notice of a Council meeting to, or the non-receipt of such notice by, any person entitled to receive notice does not invalidate proceedings at that meeting.

#### **Entitlement to attend meeting**

49. Council meetings must be open to registrants of CPSM and the public but:
- a. only Councillors are entitled to vote; and
  - b. a person who is not a Councillor may not speak without permission of the chair.

#### **Private meeting of Council**

50. In accordance with section 25(5) of the RHPA, Council may decide that an item of business on the agenda be dealt with in a private meeting. For any private meeting, all Councillors are entitled to be present but only those CPSM staff members and guests invited by Council may attend.



### **Voting at Council meetings**

51. Each Councillor, except the Chair, is entitled to one vote on all matters. If there is an equality of votes on a matter the Chair has the deciding vote.
52. All voting at Council and Committee meetings is open. Voting for the position of President-Elect may be conducted by secret ballot if requested by any councillor.
53. A Councillor is not entitled to vote by proxy.

### **Procedure at Council meetings**

54. The Council may meet and conduct business in person, or by video, telephone conference, web casting, or an equivalent mechanism.
55. If, in the opinion of the President, a matter is urgent business that requires immediate attention by the Council, and if, in the opinion of the President, the matter can be adequately addressed by providing information to the Council electronically or in writing, with the Council voting on a resolution included in the information by mail or by specified electronic means, the President may provide such information to the members of the Council, and allow a time for response that is, in the opinion of the President, sufficient to permit the Council members to respond.
56. In order to constitute quorum of the Council for the purposes of section 55 of this Bylaw, a simple majority of the members of Council must have voted on the resolution by specified electronic means by the time for response established by the President.
57. Council meetings must be conducted in accordance with Council policy governing the conduct of meetings and the *Interpretation Act*.

### **Presiding Officer**

58. The President, or in the absence of the President, the President-Elect or the Past-President, must preside at a Council meeting. In the absence of the President, President-Elect and Past-President, the Councillors present must choose a Councillor to preside at the meeting.

### **Dispute Resolution**

59. A dispute concerning the procedure to be followed at a Council meeting that is not provided for in the RHPA, Bylaws or policies of Council may be resolved in accordance with Roberts Rules of Order.

## Meetings of Registrants

### Annual meeting of registrants

60. Each calendar year, an annual meeting of the registrants of CPSM must be held in Manitoba, at a time and place to be determined by Council.

### Special meeting of registrants

61. At any time, Council may convene a special meeting of registrants.
62. Upon receiving a written request signed by at least five percent of the regulated registrants of CPSM entitled to vote, Council must convene a special meeting registrants for the purpose specified in the request. The written request must be delivered to the Registrar and must state the nature of the business that is proposed to be considered at the meeting.
63. A special meeting of registrants convened under section 62 of this Bylaw must be held within 75 days of receipt of the written request.

### Notice of meeting of registrants

64. The notice of a special meeting of registrants must state the business that will be considered at the meeting and the meeting must not consider any other business.
65. For all annual general and special meetings of registrants:
- a. Council must provide at least 14 days notice of the meeting to each registrant of CPSM and to the public;
  - b. notice to registrants must include:
    - i. the place, date and time of the meeting, and
    - ii. any resolutions proposed to be presented at the meeting; and
  - c. notice to registrants and to the public may be given by posting a notice on CPSM website.
66. The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, a person entitled to receive notice does not invalidate proceedings at the meeting.

### Quorum at meeting of registrants

67. A quorum for a meeting of registrants is eight voting registrants.

### **Procedure at meeting of registrants**

68. The President or in the absence of the President, the President-Elect or the Past-President, must preside over the meeting. In the absence of the President, President-Elect and Past-President, the registrants present must elect a chairperson from among Councillors present at the meeting.
69. The President must set the agenda for the annual general meeting of registrants. The agenda must include the following items:
  - a. Council reports relevant to the activities of CPSM;
  - b. the CPSM's audited financial statement and report;
  - c. any new Bylaws or Bylaw amendments approved by Council in the preceding fiscal year, which require registrants' approval; and
  - d. the annual appointment of the auditors of CPSM.

### **Voting at meeting of registrants**

70. A registrant of CPSM in good standing present in person at the meeting and entitled to vote at the meeting has one vote.
71. Voting will be conducted by a show of hands, unless the chairperson considers it necessary to conduct a vote by ballot.
72. In case of a tie vote, the proposed resolution does not pass.
73. Any resolution passed at an annual or special meeting of registrants, except for a resolution confirming or varying a Bylaw, must be considered by Council at its next regularly scheduled meeting.

### **Voting by Registrants on Bylaws Other than at a meeting**

74. If Council determines that it is in the best interests of CPSM to have a bylaw amended or repealed by the registrants prior to the next annual meeting of registrants, Council may approve a vote on the proposed bylaw amendment or repeal by an electronic ballot of registrants who are entitled to vote at a meeting of registrants.
75. The vote on the bylaws by the registrants shall be conducted electronically as soon as practicable following the decision by Council to hold a vote prior to the annual meeting of registrants.
76. Registrants shall be allowed a minimum of seven calendar days in which to cast their vote following the date of the electronic distribution of the instructions and voting materials to the registrants entitled to vote. The voting materials shall include the proposed bylaw

amendment(s) and a concise explanation for the rationale for the proposed amendment(s).

77. A majority of the registrants who cast a valid electronic ballot shall determine the result of the vote provided that the minimum quorum of 8 registrants cast a vote.

#### **Entitlement to vote at meeting of registrants**

78. All regulated registrants and regulated associate registrants who attend a meeting of registrants in person are entitled to vote at the meeting, except registrants in the following classes:
- a. Full - academic, visiting professor;
  - b. Full - non-practising;
  - c. Full - retired;
  - d. Provisional - restricted purpose;
  - e. Provisional - temporary locum;
  - f. Provisional - non-practising;
  - g. Provisional - retired;
  - h. Assessment candidate - specialty practice;
  - i. Assessment candidate - family practice;
  - j. Assessment candidate - re-entry to practice;
  - k. Educational - non-practising;
  - l. Physician assistant - restricted purpose;
  - m. Physician assistant - non-practising;
  - n. Clinical assistant- non-practising;
  - o. Physician assistant or clinical assistant retired.

#### **Procedural issues at registrants meeting**

79. A dispute concerning the procedure to be followed at a meeting of registrants that is not provided for in the RHPA or Bylaws must be resolved in accordance with Roberts Rules of Order.

## **PART D - PROCEDURAL RULES FOR THE INQUIRY COMMITTEE**

80. Rescinded
81. The Procedural Rules for the Inquiry Committee attached as Schedule B set out certain procedures to be followed by the Inquiry Committee.
82. Neither the Code of Ethics nor the Procedural Rules for the Inquiry Committee bind or limit an Inquiry Panel in determining its own procedures in accordance with s. 117(1) of the RHPA or whether the conduct of a registrant is professional misconduct in accordance with s. 124(2) of the RHPA.

## PART E - COUNCIL REGULATIONS, STANDARDS OF PRACTICE OR BYLAWS AMENDMENTS, FORMS

### Amendment to Regulations or Bylaws (AM03/19)

- 83(a) Before making a *Regulation* or adopting a *Code of Ethics*, the Registrar must:
- i. post on CPSM website an explanation of the proposed Regulation or Code of Ethics,
  - ii. and, within a specified time frame of at least 30 days, seek the input of registrants, the Minister of Health, and any other person Council considers necessary on the proposed change; and
  - iii. present Council with the results of consultation for consideration before it votes on the proposed Regulation or Code of Ethics
- 83(b) Before making a *Bylaw (other than the Fee Bylaw)*, the Registrar must:
- i. post on CPSM website an explanation of the proposed change,
  - ii. and, within a specified time frame of at least 30 days, seek the input of registrants and any other person Council considers necessary on the proposed change (and if the *Accredited Facilities Bylaw* additionally seek the input of the Minister of Health); and
  - iii. present Council with the results of consultation for consideration before it votes on the proposed Bylaw.
- 83(c) Before making a new *Standard of Practice of Medicine*, the Registrar must:
- i. post on CPSM website an explanation of the proposed change,
  - ii. and, within a specified time frame of at least 30 days, seek the input of registrants, the Minister of Health, and any other person Council considers necessary on the proposed change; and
  - iii. present Council with the results of consultation for consideration before it votes on the proposed Standard of Practice.
- 83(d) Before making a new *Practice Direction*, the Registrar must:
- a. post on CPSM website an explanation of the proposed change,
  - b. and, within a specified time frame of at least 30 days, seek the input of registrants and any other person Council considers necessary on the proposed change; and
  - c. present Council with the results of consultation for consideration before it votes on the proposed Practice Direction.
84. The Registrar may make non-substantive amendments to the Bylaws, Standards of Practice, Practice Directions, and Policies such as name changes, grammatical corrections, and non-material changes.
85. Following approval by Council, every amendment to Council Regulations shall be signed by the either the President, President-Elect, or Past-President, and the Registrar, and forwarded to the Lieutenant Governor in Council for consideration.

86. Every Bylaw or Bylaw amendment enacted by the Council shall be signed by:
- a. one of the President, President-Elect, or Past-President; and
  - b. the Registrar.

## PART F - COMMITTEES OF COUNCIL AND DELEGATION TO COMMITTEES

87. The Council committees are:
- a. Executive Committee;
  - b. Audit and Risk Management Committee;
  - c. Complaints Committee;
  - d. Investigation Committee;
  - e. Inquiry Committee;
  - f. Central Standards Committee and its subcommittees; and
  - g. Program Review Committee.

### Terms of Reference for Council committees

88. Council must establish terms of reference for each Council committee which are set out in this Bylaw and include at least:
- a. Authority;
  - b. Purpose;
  - c. Composition; and
  - d. Term of office for committee members if the duration of the term is other than a one-year term.
89. Each Council committee must operate within the terms of reference established from time to time by Council for that committee.

## COUNCIL DELEGATED AUTHORITY TO COMMITTEES

### Council Delegated Authority

90. Pursuant to section 17 of the RHPA, Council delegates the following authority:
- a. to Audit and Risk Management Committee the authority to make investment decisions on behalf of CPSM;
  - b. to Executive Committee:
    - i. The committee has authority delegated by Council to take the necessary actions, to hear and to determine appeals and reinstatement applications and other adjudicative matters as specified in this Part of this Bylaw.
    - ii. The committee has authority delegated by Council to approve forms where approval is required by the RHPA, as set out in the Governance Policy.
    - iii. The committee has the authority delegated by Council to direct a registrant to complete a specific course of action or supervised practical experience, on the advice of the Central Standards Committee pursuant to section 182(4) of the RHPA.
    - iv. The committee has the authority to appoint practice auditors pursuant to section 135(1) of the RHPA. If an auditor is required to be appointed between meetings



of the Executive the Chair may appoint the auditor(s) and provide the name for ratification at the next committee meeting.

- v. The committee has the authority delegated by Council to employ, terminate, discipline or change the conditions of employment of the Registrar.

### Council Delegated Adjudication

91. Council has delegated to the Executive Committee responsibility to take necessary actions, to hear and to decide the following matters pursuant to the powers, authorities, privileges and duties conferred or imposed upon Council in the specified sections of the RHPA and the sections necessarily ancillary to those sections:

- a. Sitting as a panel of Council pursuant to RHPA s. 38(4):
  - i. registration appeals pursuant to:
  - ii. **RHPA s. 38** - Denial of registration or approval of registration subject to conditions;
  - iii. **RHPA s. 43** - Denial of certificate of practice or with conditions;
  - iv. **RHPA s. 47** - Non-renewal due to failure to meet the requirements of the regulations;
  - v. **RHPA s.183(10) and (11)**– decision to cancel certificate of accreditation and order to cease operations and consideration of written submissions to Council; or
  - vi. **CPSM General Regulation s.3.73** - Request for extension.
- b. The powers delegated by Council to the Executive Committee pursuant to **section 17(1)** of the RHPA include:
  - i. **RHPA s.48** - Cancellation of registration or practice certificate due to false representation or declaration or if criminal conviction for an offence relevant to their suitability to practice;
  - ii. **RHPA s. 50 and s.133** - Reinstatement applications;
  - iii. **RHPA s.60** – refusal of a medical corporation permit;
  - iv. **RHPA s.65** – suspension or cancellation of a medical corporation permit;
  - v. **RHPA s.66** – alternatives to suspending or cancelling a medical corporation permit;
  - vi. **RHPA s.110** – appeals from interim suspension or interim terms and conditions;
  - vii. **RHPA s.126(6)** – decision to cancel or suspended certificate of practice or registration for contravention of an order under s.126(1); and
  - viii. Registrar’s decision on posting a criminal conviction on a profile under **CPSM General Regulation s. 9.13**.
- c. Sitting in panels of three, one of whom must be a public representative, to hear appeals from the Investigation Committee, in accordance with the appeal guidelines fixed by Council, pursuant to **section 108** of the RHPA.

## **PART G – COUNCIL AND COMMITTEE EXPENSES AND REMUNERATION**

92. Council members attending meetings of the Council or of any committee of the Council shall be paid remuneration and travel expenses at such rates and in accordance with the Financial Management Policy of Council.

## PART H - REGISTRAR'S DUTIES

93. The Registrar may appoint one or more Assistant Registrars to assume all the Registrar's responsibilities when the Registrar is absent. An Assistant Registrar has the same authority as the Registrar when they are acting on behalf of the Registrar. An Assistant Registrar is not required to be a registrant.
94. The Registrar is authorized to:
  - a. establish forms, certificates, or other documents for the purposes of the RHPA, Regulations, or Bylaws and to require the use of such forms, certificates, or other documents by registrants and applicants for registration; and
  - b. delegate such duties as they may deem fit to CPSM staff.
95. The Registrar's other duties, authority, evaluation, requirements, and conflict of interest provisions are set out in the Council's Policy - Registrar.
96. Council directs the Registrar to consider and decide on applications for registration under sections 32 and 33 of the RHPA in accordance with the Act, Regulations, Bylaws, Practice Direction on Qualifications and Registration, and any other Council policies.

### Registrar Response to Alleged Serious Criminal Behaviour by a Registrant

97. Where a registrant is charged with a serious criminal offence, there are competing interests (e.g. presumption of innocence, undermining public trust, registrant's privacy rights and the legitimate rights of other individuals or organizations with whom the registrant interacts to be aware of the allegations of a serious criminal offence). The Registrar must follow the process set out below when advised that a registrant of CPSM has been charged with a serious criminal offence:
  - a. On receipt of information that a registrant has been charged with a criminal offence, the Registrar must assess whether the matter is sufficiently serious to warrant referral to the Investigation Committee. In all cases where the matter is of such a nature that referral to the Investigation Committee is warranted, the matter shall be regarded as an allegation of a serious criminal offence.
  - b. Where there is an allegation of a serious criminal offence against a registrant of CPSM, the Registrar must promptly:
    - i. Attempt to obtain a copy of the charges laid against the registrant;
    - ii. Ascertain whether there are search warrants or other public documents from the court docket available in relation to the charges and, if so, attempt to obtain copies of those documents;
    - iii. Determine the practice location(s) of the registrant, including whether the registrant has privileges at any facility;

- iv. Where possible, ascertain whether the person reporting to CPSM has also made a report to each facility where the registrant has privileges and, if so, the content of that report and to whom the report was made.
- c. Where a registrant who has been charged with a serious criminal offence is a member of the medical staff of a regional health authority, the Registrar must promptly communicate with the Chief Medical Officer of that regional health authority to ensure that the Chief Medical Officer is aware of the charges against the registrant.
- d. Where a registrant who has been charged with a serious criminal offence is not a member of the medical staff of a regional health authority, the Registrar must promptly notify the Deputy Minister of Health of the charges against the registrant.
- e. Where CPSM has obtained copies of charges or other documents from the court docket respecting the charges against a registrant, the Registrar must provide copies of these documents to the Chief Medical Officer or the Deputy Minister of Health as the case may be.
- f. In accordance with *The Regulated Health Professions Act*, the Investigation Chair is responsible for determining whether a registrant who is charged with a serious criminal offence:
  - i. should be allowed to continue to practice without restriction,
  - ii. should be interim suspended from practice,
  - iii. should be allowed to practice subject to the imposition of interim terms and conditions, or
  - iv. should be allowed to practice subject to the terms of an undertaking
- g. Where the Investigation Chair is contemplating allowing the individual to practice subject to the terms of an undertaking, the Investigation Chair must assess whether:
  - i. the public can only be adequately protected by an undertaking that authorizes CPSM to provide any and all information respecting the criminal charges against the registrant to the Chief Medical Officer of any regional health authority where the registrant has privileges or to the Deputy Minister of Health, as the case may be.
  - ii. the public can only be adequately protected by the imposition of terms and conditions which are a matter of public record.
- h. Where the report to CPSM is made by the police, the Registrar must confirm with the police that CPSM will disclose the information provided by the police to Chief Medical Officer of any regional health authority, and if applicable CancerCare, Diagnostic Services of Manitoba, or Shared Health Services of Manitoba, where the registrant has privileges or to the Deputy Minister of Health, as the case may be.

### Posting criminal conviction on Practitioner Profile

98. The Registrar must use the following criteria to assess whether a Registrant's criminal conviction is relevant to the registrant's competence or safe practice of medicine:

- a. The conviction is based upon an event that resulted from a physician/patient relationship, and/or
  - b. The conviction results from harm to a patient or society related to or resulting from the practice of medicine, and/or
  - c. The conviction indicates that the registrant's ability to practise medicine safely is compromised taking into account the following factors:
    - the nature of the offence;
    - any prior convictions;
    - the length of time since the conviction;
    - the completion of any penalty imposed;
    - the degree of regret and remediation demonstrated by the registrant;
    - the potential that the offence will affect the registrant's current practice.
99. Where the Registrar is of the opinion that a Registrant's conviction is deemed relevant to the Registrant's competence or to the safe practise of medicine, the Registrar must inform the registrant that the registrant's conviction will be published on the practitioner profile within thirty days. The notification must be in writing and must include the reasons for the decision.
100. The registrant may appeal the decision to post their criminal conviction to the Executive Committee within 30 days of being so notified. The appeal must be in writing and must state the reasons for the appeal.
101. The Executive Committee shall notify the registrant of its decision in writing.
102. The conviction shall be posted pending the appeal decision of the Executive Committee.

## PART I – COMMUNICATION WITH CPSM

### Registrant's Response to CPSM Correspondence

103. When the Registrar, an Assistant Registrar or a Medical Consultant engaged by CPSM writes to a registrant with respect to any matter and requires a response, the registrant shall:
- a. respond in writing;
  - b. when responding to correspondence related to a complaint or investigation, unless otherwise approved by the CPSM Medical Consultant, personally sign the response. In respect to all other correspondence, electronic signature of the registrant will suffice unless otherwise directed by the Registrar, Assistant Registrar or Medical Consultant.
  - c. provide a response to the substance of the matter, and all particulars pertinent thereto; and
  - d. respond within the length of time specified in CPSM correspondence.

### Reminder

104. When reminder correspondence is sent to a registrant from the Registrar, an Assistant Registrar or a Medical Consultant engaged by CPSM and the registrant fails to respond in writing within 15 days from the date of the reminder correspondence, the registrant may be referred to the Investigation Committee.

### Compliance

105. A registrant who, without a reasonable excuse, fails to comply with section 103 or 104 may be found guilty of professional misconduct.
106. Except for correspondence sent requiring a registrant to respond in less than 5 days, correspondence sent to a registrant may be sent by ordinary mail addressed to the registrant's business address as appears on the records of CPSM. A correspondence sent by ordinary mail to a registrant shall be deemed to be received by the registrant on the fifth working day after the date of the correspondence.
107. In the absence of specific instruction to the contrary, CPSM shall regard each registrant's primary practice location as that registrant's business address.

### Business Address

108. Correspondence being mailed to a registrant will be sent to that registrant's primary practice location unless the registrant provides to CPSM an alternate address as the address for all official notifications.

## PART J - MEDICAL CORPORATIONS

### Change in information

109. A medical corporation must inform the Registrar, in writing, of any change in the shareholders, directors or officers of the medical corporation within 15 days of such change.

## PART K – ELECTION TRANSITION

### Election Transition

110. In 2020, the following elections of regulated registrants will be held:
- |                             |   |
|-----------------------------|---|
| East Electoral District     | – one Councillor for a two-year term;     |
| West Electoral District     | – one Councillor for a four-year term;    |
| Winnipeg Electoral District | – three Councillors for a four-year term. |
111. In 2022, elections of regulated registrants will be held according to the schedule set out in Part B of this Affairs of the College Bylaw and the Code of Ethics of CPSM. Section 6 (Election Transition) shall continue in effect only until January 1, 2022.

## PART L - REPEAL

### Repeal

112. Bylaws No. 1, 2, 3, 3D, 4, 5, 6, 7, 8, 9, 10 and 11 of the CPSM previously enacted by Council, pursuant to *The Medical Act*, with all amendments thereto, are repealed effective January 1, 2019. This Bylaw shall be in force as of and from January 1, 2019. This Bylaw has not retroactive effect and the previous bylaws now repealed, maintain authority for the period in which they were in effect.

**PART M – BOARD OF ASSESSORS**

113. The Board of Assessors is established in accordance with section 31 of the RHPA to consider and decide on applications for registration under section 32 or 33 upon referral by the Registrar.
114. Terms of reference for the Board of Assessors are set out in the Governance Policy of Council, and include the Board's authority, purpose, composition, and the term of office for Board members. The Board of Assessors is required to operate within the terms of reference established from time to time by Council.
115. Members of the Board of Assessors shall be paid remuneration and travel expenses at such rates and in accordance with the Financial Management Policy of Council.



## PART N - SCHEDULES

### ELECTORAL DISTRICTS - SCHEDULE "A" TO THIS BYLAW

All references to Health Regions in this schedule refer to the Health Regions as defined in Manitoba Regulation 207-97 as at June 21<sup>st</sup>, 2002. The Health Regions are shown on the attached sketches of the southern area and northern area of Manitoba and are dated September 1999.

#### North Electoral District:

Those areas described as the former Northman, Parklands and Interlake Electoral Districts of CPSM as set out in Manitoba Regulation 207-97:

**Northman those areas** described in:

- a. section 1 of Schedule 2 of Manitoba Regulation 207/97 as the Burntwood Health Region,
- b. section 1 of Schedule 4 of Manitoba Regulation 207/97 as the Churchill Health Region, and
- c. section 1 of Schedule 7 of Manitoba Regulation 207/97 as the Norman Health Region.

**Parklands** That area described in section 1 of Schedule 9 of Manitoba Regulation 207/97 as the Parkland Health Region.

**Interlake** That area described in section 1 of Schedule 5 of Manitoba Regulation 207/97 as the Interlake Health Region.

.....

#### East Electoral District

Those areas described in:

**Eastman Electoral District:** Those areas described in:

- a. section 1 of Schedule 8 of Manitoba Regulation 207/97 as the North Eastman Health Region, and
- b. section 1 of Schedule 10 of Manitoba Regulation 207/97 as the South Eastman Health Region.

**Central Electoral District:** That area described in section 1 of Schedule 3 of Manitoba Regulation 207/97 as the Central Health Region.

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#### West Electoral District

Those areas described in:

**Westman Electoral District:** Those areas described in:

- a. section 1 of Schedule 6 of Manitoba Regulation 207/97 as the Marquette Health Region, and
- b. section 1 of Schedule 11 of Manitoba Regulation 207/97 as the South Westman Health Region.

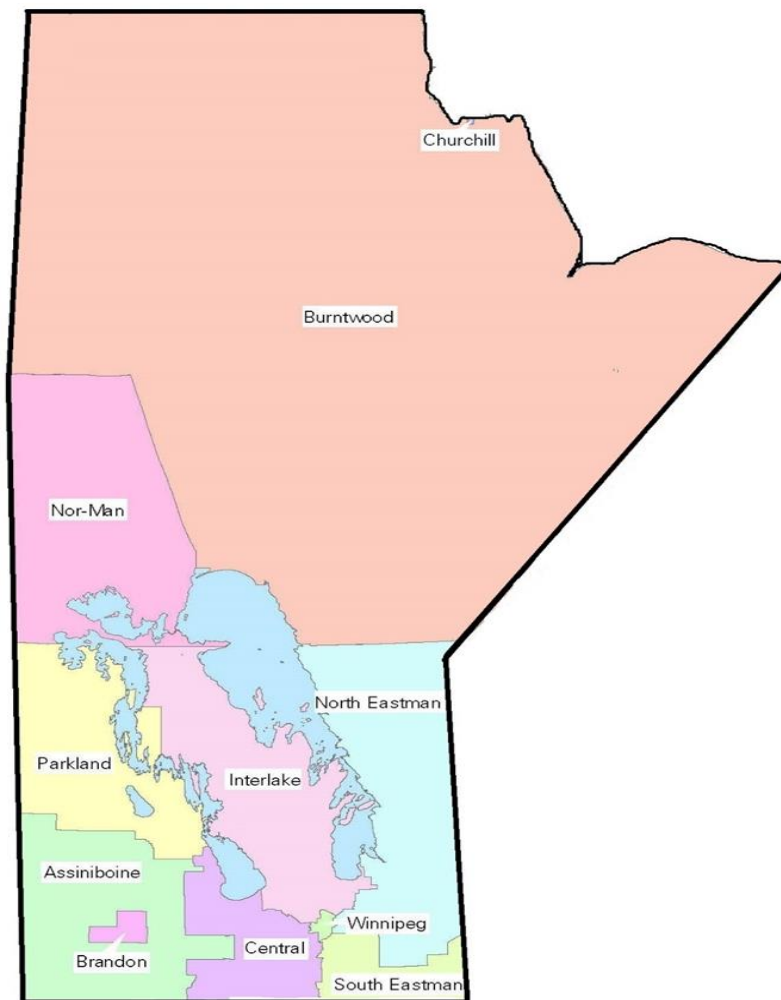
**Brandon Electoral District:** That area within the boundaries of the City of Brandon and the Rural Municipalities of Elton, Whitehead and Cornwallis.

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## Winnipeg Electoral District

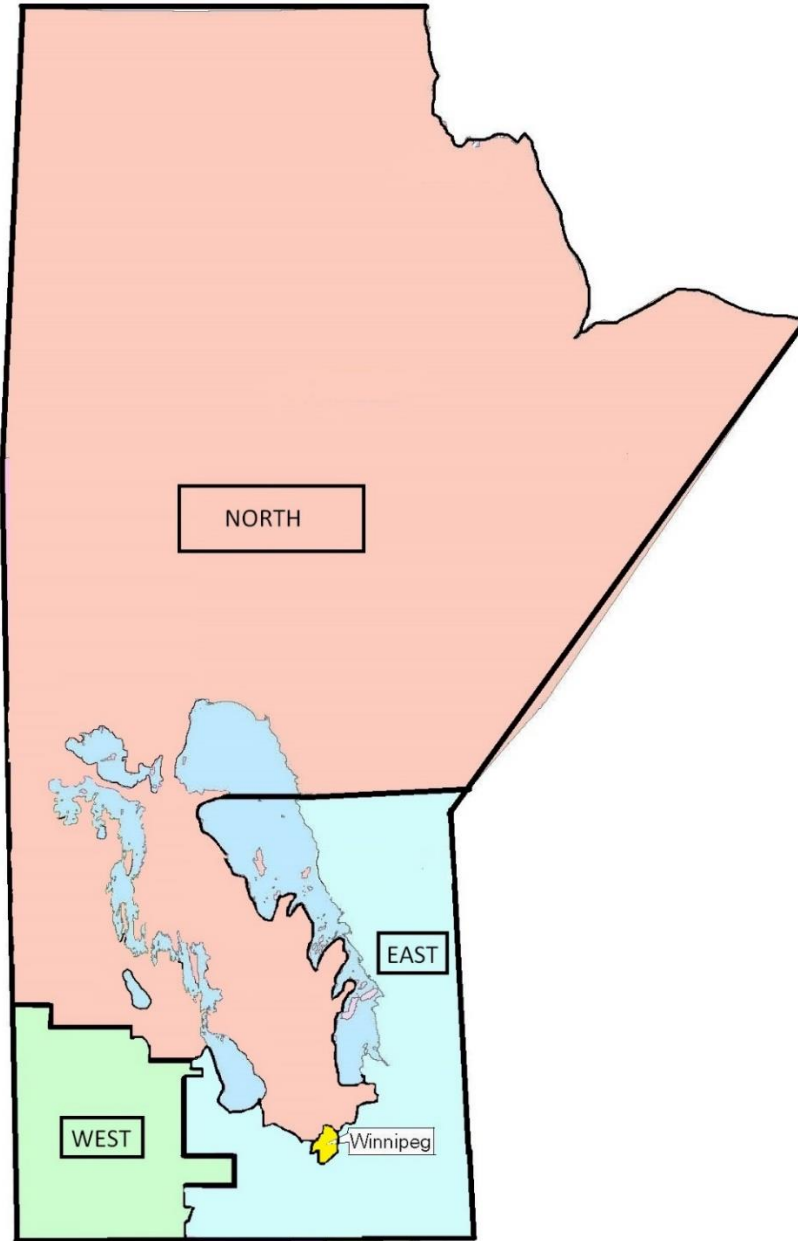
**Winnipeg Electoral District:** That area within the boundaries of the City of Winnipeg and the Rural Municipalities of West St. Paul and East St. Paul.

For each electoral district using the boundary descriptions set forth in Manitoba Regulation 207/97, the descriptions in effect as at June 21, 2002 are hereby incorporated into and form part of this Schedule.



**The Sketch outlining the Health Regions as at September 1999 are hereby incorporated and form part of this schedule.**

Below is a colour map showing the new CPSM Electoral Boundaries under the RHPA



## **PROCEDURAL RULES FOR THE INQUIRY COMMITTEE – SCHEDULE “B” TO THIS BYLAW**

### **Meeting to Set Hearing Dates**

1. Upon referral of a matter to the Inquiry Committee pursuant to s. 102(1) of the RHPA, the Registrar shall give written notice to the investigated registrant of the date on which the chair or vice-chair of the Inquiry Committee will hold a meeting for the purpose of setting a date for convening and conducting a hearing in accordance with the requirements of s. 116 of the RHPA.
2. Neither the investigated registrant nor CPSM are required to appear in person for any meeting for the purpose described in section 1 herein where the chair or vice-chair of the Inquiry Committee is provided with sufficient information from legal counsel for CPSM and the investigated registrant or the registrant’s legal counsel in advance of the meeting for the purpose of:
  - a. setting the date(s) for beginning and conducting the hearing; and
  - b. selecting a panel of the Inquiry Committee which will hold the hearing.
3. In order to comply with the requirements of s. 116 of the RHPA:
  - a. the date on which the hearing begins must be within 120 days of the matter is referred to the Inquiry Committee by the Investigation Committee unless the investigated registrant consents in writing to a later date; and
  - b. allow for the Registrar to give written notice to the investigated registrant and the complainant stating the date, time and place of the hearing, and identifying in general terms the complaint or matter about which the hearing will be held at least 30 days before the hearing begins.

### **Pre-Hearing Conference**

4. The chair or vice-chair of the Inquiry Committee or any other person who is a member of the Inquiry Committee and is appointed by the chair or vice-chair of the Inquiry Committee may order a pre-hearing conference at any time before the hearing begins at the request of the investigated registrant or the registrant’s legal counsel or legal counsel for CPSM or on the chair or vice-chair’s own initiative.
5. The pre-hearing conference may be conducted by the chair or vice-chair of the Inquiry Committee or their appointee or by legal counsel to the Inquiry Committee.
6. Legal counsel for CPSM and the investigated registrant or the investigated registrant’s legal counsel must participate in any pre-hearing conference ordered pursuant to this bylaw.

7. The pre-hearing conference may be conducted in person, or by video, telephone conference, web casting, or an equivalent mechanism provided that all parties participating are able to communicate with each other.
8. A pre-hearing conference may address any number of matters, including the following:
  - a. the identification and simplification of the issues;
  - b. the necessity or desirability of amendments to the Notice of Inquiry;
  - c. the possibility of obtaining admissions which might facilitate the hearing;
  - d. the discovery and production of documents;
  - e. the estimated duration of the hearing;
  - f. whether any preliminary motions are anticipated and the need to file a motions brief in respect of same; and
  - g. any other matters that may aid in the disposition of the Notice of Inquiry.
9. The person conducting the pre-hearing conference may adjourn the pre-hearing conference to a specified date, time and place.
10. Agreements and/or undertakings made at a pre-hearing conference may be recorded in a memorandum prepared by or at the direction of the person conducting the pre-hearing conference. Copies of the memorandum shall be provided to CPSM and the investigated registrant.

#### **Appointment of Registrants of the Panel**

11. The person who conducts any pre-hearing conference(s) will not be appointed as a member of the Inquiry Panel hearing the matter unless the investigated registrant or the registrant's legal counsel or legal counsel for CPSM all consent to that person's appointment to the Inquiry Panel.
12. After the chair or vice-chair of the Inquiry Committee makes a preliminary selection of Panel members, both counsel for CPSM and the investigated registrant will be notified of the selection and provided with an opportunity to object to any Panel member selected. If there are any objection(s), they must be communicated in writing and include the reason(s) for the objection(s) such that a determination can be made as to whether any selected member(s) should be disqualified from serving as a Panel member
13. The chair or vice-chair of the Inquiry Committee will decide if a potential Panel member should be disqualified and will provide written reasons for the decision to both CPSM and the investigated registrant.

14. If either CPSM or the investigated registrant objects to the decision of the chair or vice-chair not to disqualify a panel member for any reason, the objection shall be dealt with by a formal motion unless otherwise agreed by CPSM and the investigated registrant.

#### **Notice to Attend and Produce Records**

15. Where either legal counsel for CPSM or the investigated registrant or the registrant's legal counsel makes a request, in writing, the Registrar may issue a Notice to Attend and Produce Records with the names of any number of witnesses which legal counsel for CPSM or the investigated registrant or the registrant's legal counsel identifies in the request pursuant to section 119(5) of the RHPA.

#### **Alternative means of receiving Oral Evidence**

16. Upon the motion of either CPSM or the investigated registrant prior to or during the hearing and with the consent of the Inquiry Panel, a witness may give evidence in person, or by video, telephone conference, web casting, or an equivalent mechanism.