



INVESTIGATION COMMITTEE POLICY

Audits, inspections and observation under subsection 99(1)(b) of the RHPA

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CONTEXT

Pursuant to subsection 99(1)(b) of *The Regulated Health Professions Act* (“RHPA”), an investigator may, at any reasonable time and where reasonably required for the purposes of an investigation under Part 8 of the RHPA, inspect, observe or audit the investigated member's practice.

Subsection 99(1) of the RHPA states that an investigator may only exercise these powers on the direction of the Investigation Committee or, if it is necessary to protect the public from exposure to serious risk, on the direction of the Chair of the Investigation Committee (“Chair”).

Subsection 98(2) of the RHPA makes it clear that an investigator may investigate any matter related to the professional conduct or the skill in practice of the investigated member that arises in the course of the investigation. As such, the issue as to whether an inspection, observation or an audit of the investigated member's practice is reasonably required can arise at any point during an investigation.

POLICY

Factors

A determination as to whether it is reasonably required to inspect, observe or audit an investigated member's practice for the purposes of an investigation involves consideration of a number of factors, including the following:

1. the nature and extent of concerns about the investigated member's practice;
2. whether further relevant or potentially relevant information about the member's practice of medicine, including the member's competence and fitness to practice in one or more areas, may be obtained;
3. the nature and extent of the investigated member's practice that should be subject to audit, inspection or observation and which and how any of these actions should be conducted, including the intended scope, to reasonably address relevant concerns (e.g. onsite inspection of premises; observation of surgical technique, chart audit, interactive audit, etc.); and
4. the intended objectives of these actions, including whether:

- a. one or more of these action will inform the decision as to what, if any, conditions or limitations on the member's practice are warranted, such as monitoring or supervision requirements;
- b. any remedial action which might be identified, including education and or additional training, as appropriate to address concerns/deficiencies;
- c. a repeat audit, inspection or observation may be required to assess the investigated member's remedial efforts; and/or
- d. an undertaking should be given by the investigated member to facilitate any aspect of the inspection, audit, observation and/or any follow up remediation attempts, including any agreement on the part of the investigated member to pay certain related costs.

Direction from the Investigation Committee or Chair

Where the investigator is satisfied that an audit, inspection or observation of the investigated member's practice is reasonably required, the investigator must submit a written request for direction from the Investigation Committee, or the Chair where there is reason to believe that such action is urgent and necessary to protect the public from exposure to serious risk.

Where the Investigation Committee, or the Chair as the case may be, is satisfied that an audit, inspection or observation of the investigated member's practice is reasonably required, it will make the requested direction, with any modification deemed appropriate after consultation with the investigator.

Where the Investigation Committee or Chair directs an audit, inspection or observation, the direction should be broad enough to include any follow-up audits, inspections or observations as may be required in order to achieve the intended objectives of the audit, inspection or observation without the need for a further direction.

Delegation

Where the Investigation Committee or Chair directs the investigator to conduct an audit, inspection or observation of an investigated member's practice, the investigator may delegate all or a portion of the conduct of the audit, inspection or observation to any person, but the investigator remains responsible for the action, including ensuring that the action is conducted in compliance with any direction provided by the Investigation Committee or Chair.

Repeat Audits

The following process will generally be followed where one or more audits are contemplated as part of the Investigation Committee facilitating remedial efforts of an investigated member to address deficiencies in the investigated member's practice, regardless of how those deficiencies are identified, including in an audit:

1. The investigated member will be required to give an undertaking which includes:

- a. the investigated member's agreement to:
 - i. complete an appropriate remedial plan;
 - ii. participate in a repeat audit be conducted within three to six months after completion of the remedial plan; and
 - iii. pay the costs associated with the remedial plan and audit process, and
 - b. the investigated member's acknowledgment that:
 - i. there is an expectation that the repeat audit will demonstrate improvement; and
 - ii. if there is no significant improvement, further action may be taken by the Investigation Committee to address ongoing concerns, including the imposition of conditions on the member's right to practice and/or formal disciplinary action.
2. To avoid delay in the processing of a complaint in circumstances where there is a complainant, the **Expanded Investigation Policy** will apply, and the complaint will be processed. The ongoing audit/remedial process will be dealt with as a separate complaint.