



COUNCIL POLICY

Appeals from Registration Application Decisions and Extension Decisions made by the Registrar or Board of Assessors

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Contents

1. Overview	2
2. Parties to an Appeal	2
3. Appeal Panel	2
4. Initiating an Appeal	3
5. Process Upon Receiving Notice of Appeal	3
6. Written Submission	4
7. Appeal Book	4
8. New Issues or Evidence	5
9. Appeal Hearing	5
10. Reasons and Notice of Decision.....	5
11. Right of Appeal.....	5

1. **Overview**

If an application for registration is refused, or approved with conditions, that decision may be appealed to CPSM’s Council. *The Regulated Health Professions Act* (“RHPA”) sets out how the appeal process works.¹

The same appeal process applies to other registration-related decisions made by the Registrar or the Board of Assessors, including decisions to:

- Refuse or place conditions on a certificate of practice;²
- Refuse to renew a certificate;³ and
- Refuse a request for extension under section 3.72 of the *CPSM General Regulation*.

In this Policy, all of these are referred to as “Registration Decisions.”

2. **Parties to an Appeal**

The “Parties” to an appeal of a Registration Decision are:

- The person filing the appeal (the “Applicant”); and
- The Registrar or Board of Assessors (as applicable).

3. **Appeal Panel**

Appeals of Registration Decisions are typically decided by a three-member panel of CPSM’s Executive Committee (the “Appeal Panel”).⁴

Appeal Panels are appointed by the Chair of the Executive Committee, who also designates the Panel Chair. Each panel must include at least three members from the Executive Committee or Council, with at least one-third being public representatives.⁵

If there are not enough eligible members due to conflicts of interest, the Council may appoint other CPSM registrants or public representatives in accordance with Council’s *Governance Policy*. Neither the Registrar, nor any member of Council who sits on the Board of Assessors may be appointed to an Appeal Panel.⁶

¹ RHPA, s. 38.

² RHPA, s. 43.

³ RHPA, s. 47.

⁴ Council has delegated its authority to hear appeals of Registration Decisions to the Executive Committee, per s. 91 of *The Affairs of the College Bylaw*.

⁵ RHPA, s. 38(4).

⁶ RHPA, s. 38(8).

The Appeal Panel does **not** rehear the matter for the purpose of making a fresh decision. Its role is to review the Registration Decision and determine whether it contains errors of law, errors of principle, or is not reasonably sustainable. The Appeal Panel does this by reviewing the decision, including the Registrar or Board of Assessor's overall assessment of the evidence and reasoning, using a flexible and contextual approach.

If the decision does not contain such errors and it is reasonably sustainable, the appeal will be dismissed. If the decision does contain such errors or is not reasonably sustainable, the Appeal Panel may make any decision that the Registrar or the Board of Assessors could have made.

4. Initiating an Appeal

To initiate an appeal, the Applicant must provide the Registrar with a Notice of Appeal within 30 days of receiving notice of the Registration Decision.⁷⁸⁹

The Notice of Appeal must be in writing and clearly identify: (a) the decision being appealed; and (b) the reasons for the appeal. The Applicant should outline the specific errors they believe were made by the Registrar or Board of Assessors.

The Notice of Appeal should be brief and should not include new evidence or documents. Detailed explanation and argument should be provided in the Applicant's written submission.

The Applicant may choose to file their Notice of Appeal and written submission as one document.

5. Process Upon Receiving Notice of Appeal

Upon receiving a Notice of Appeal from an Applicant:

- The Registrar will acknowledge receipt of the Notice of Appeal and promptly forward it to the President, who is the Chair of the Executive Committee, together with a copy of the Registration Decision.
- The Registrar will provide the Applicant with:
 - The application for registration, renewal or extension;
 - Particulars of the Applicant's medical education and post-graduate medical training;

⁷ RHPA, ss. 38(2).

⁸ Per s. 76 of the RHPA, a Registration Decision is considered received: (1) on the date it is delivered in person; (2) when sent by registered mail, or by another service provider that provides the sender with proof of delivery to the intended recipient at that person's last recorded address; (3) when sent by regular mail, five (5) days after the day it was sent; or (4) when sent by email, upon confirmation of delivery.

⁹ As an exception to the 30-day appeal period, subsection 3.73(2) of the *CPSM General Regulation* states that, for the purpose of an appeal under subsection 3.73(1) (which relates to extensions of registration), subsection 38(2) of the RHPA is to be read to allow **only 15 days**.

- Each document relied upon by the Registrar or Board of Assessors in reaching the Registration Decision
and ask the Applicant if they intend to file a written submission, which must be received within thirty (30) days of receipt of these documents.
- An Appeal Panel will be appointed.
- The appeal hearing will be scheduled.¹⁰
- The Applicant will be provided with:
 - Notice of the date, time, and place of the hearing.¹¹
 - The names of the Appeal Panel members for the purpose of raising an objection, if any.

6. Written Submissions

Both Parties are entitled to provide written submissions to the Appeal Panel. The Chair will provide the Registrar or Board of Assessors with thirty (30) days to file a written submission from the date they are provided with the Applicant's written submission.¹²

The Applicant's written submission is intended to explain the reasons or grounds for the appeal and should contain relevant facts and arguments.

7. Appeal Book

At least two (2) weeks prior to the appeal hearing, the Parties and the Appeal Panel will be provided with an Appeal Book, which will contain:

- The application for registration, renewal or extension;
- Particulars of the Applicant's medical education and post-graduate medical training;
- Each document relied upon by the Registrar or Board of Assessors in reaching the Registration Decision;
- The Registrar's letter to the Applicant of the reasons for the Registration Decision;
- The Notice of Appeal;
- Any written submissions filed by the Parties;
- Any case law filed by the Parties.

Both Parties will be provided with an opportunity to comment on whether additional relevant items should be included.

¹⁰ In accordance with s. 38(9) of the RHPA, the appeal hearing will be scheduled within ninety (90) days of receiving the Notice of Appeal.

¹¹ RHPA, s. 38(3).

¹² If a written submission from the Applicant is not expected, the Registrar or Board of Assessors will be provided with thirty (30) days from the date it receives that information. This may be reduced to **fifteen (15) days** in the context of an appeal under section 3.73 of the *CPSM General Regulation*.

8. New Issues or Evidence

Appeals are decided based on the information that was before the original decision-maker. This means the Appeal Panel will usually only consider what is already on record.

New information will generally only be considered where there is a strong public interest in doing so. The Appeal Panel may choose not to consider new evidence or new issues, especially if they could have been raised at an earlier time.

9. Appeal Hearing

When an Appeal Panel meets to consider an appeal:

- The Parties are permitted to attend and be represented by legal counsel.
- The Appeal Panel may have legal counsel.
- The Appeal Panel may request any additional information it deems necessary and may adjourn the hearing to request additional information.
- The Appeal Panel may send clarifying questions to the Parties prior to deciding the appeal.

10. Reasons and Notice of Decision

The Appeal Panel must decide the appeal within ninety (90) days after the hearing.^{13, 14} Within thirty (30) days after deciding the appeal, written notice of the decision and reasons must be provided to the Applicant and the Registrar.¹⁵

The Appeal Panel's written reasons will address the major points in issue and explain why the Panel reached its decision.

11. Right of Appeal

The Applicant has a right of the appeal to the court.¹⁶

¹³ S.38(9).

¹⁴ As an exception to the ninety (90) day period to decide the appeal, subsection 3.73(2) of the *CPSM General Regulation* states that, for the purpose of an appeal under subsection 3.73(1) (which relates to extensions of registration), subsection 38(9) of the RHPA is to be read for **only thirty (30) days**.

¹⁵ S. 38(10).

¹⁶ S. 39(1).