



PRACTICE DIRECTION

Decisions Regarding Permits for Medical Corporations & Related Appeals

Initial Approval: November 22, 2018

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Reviewed with NO Changes

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Practice Directions set out requirements related to specific aspects of the practice of medicine. Practice Directions provide more detailed information than contained in the *Regulated Health Professions Act* ("RHPA"), Regulations, Bylaws, and Standards of Practice issued by the College. All members must comply with Practice Directions, per s. 86 of the RHPA.

This Practice Direction is made under the authority of s. 85 of the RHPA and is intended to implement and supplement the mandatory requirements of s. 60(7), 60(8), 60(9), 65 and 66 of the RHPA where the Executive Committee, sitting as a panel of Council, is:

- a. determining appeals pursuant to s. 60(7) of the RHPA from decisions of the Registrar pursuant to s. 60(5) of the RHPA; or
- b. considering matters under s. 65 or 66 of the RHPA.

1. Appeals pursuant to section 60(7) of the RHPA

1.1. The following process for the hearing and determination of appeals pursuant to s. 60(7) supplements the following mandatory requirements of s. 60(7), 60(8), 60(9) and 60(1) of the RHPA:

- 1.1.1. An appeal must be made in writing in the form of a notice of appeal.
- 1.1.2. The notice of appeal must be filed within 30 calendar days after the corporation receives notice of a decision under s. 60(5) of the RHPA which the corporation is appealing from.
- 1.1.3. The notice of appeal must specify the reasons for the appeal.
- 1.1.4. The Executive Committee must either dismiss the appeal or make any decision the Registrar could have made.
- 1.1.5. The corporation must be given written notice of any decision by the Executive Committee under s. 60(9) of the RHPA and the reasons for it.
- 1.1.6. The corporation may appeal the decision of the Executive Committee to the court by filing a notice of appeal within 30 calendar days after receiving the decision pursuant to s. 60(10) of the RHPA.

1.2. Upon receipt of a notice of appeal which complies with the requirements of s. 60(8) of the RHPA, the Registrar must acknowledge receipt of the notice of appeal to the medical corporation appealing the decision and advise the President of the College.

2. Suspending, cancelling or taking alternative action respecting a permit pursuant to section 65 or 66 of the RHPA

2.1. The following process for the hearing and determining matters under either s. 65 or 66 of the RHPA supplements the following mandatory requirements of s. 65 and 66 of the RHPA:

- 2.1.1. Subject to s. 65(2) and 65(3) of the RHPA, the Executive Committee may suspend or cancel a medical corporation's permit if
 - 2.1.1.a. the corporation ceases to meet any of the requirements of eligibility for a permit set out or referred to in s. 60(1) of the RHPA;
 - 2.1.1.b. the corporation contravenes any provision of the RHPA or the regulations or by-laws of the College or any condition on the corporation's permit; or
 - 2.1.1.c. a regulated member, in the course of providing health care on behalf of the corporation, does or fails to do anything as a result of which the member's registration or certificate of practice is suspended or cancelled.
- 2.1.2. When a medical corporation's permit is cancelled, it must promptly surrender the permit to the registrar.
- 2.1.3. Instead of suspending or cancelling the medical corporation's permit under s. 65 of the RHPA, the Executive Committee may, pursuant to s. 66 of the RHPA, take any other action it considers appropriate, including one or more of the following:
 - 2.1.3.a. reprimanding the corporation or one or more directors or voting shareholders of the corporation;
 - 2.1.3.b. imposing conditions on the permit;
 - 2.1.3.c. imposing a fine on the corporation, payable to the college, in an amount not exceeding \$25,000.
- 2.1.4. The Executive Committee must
 - 2.1.4.a. give notice to the medical corporation in writing with the reasons for the decision to suspend or cancel its permit pursuant to s. 65 or take any action under s. 66 of the RHPA; and
 - 2.1.4.b. advise the medical corporation of the right to appeal the decision to the court pursuant to s. 67 of the RHPA.
- 2.1.5. The medical corporation may appeal any decision of the Executive Committee pursuant to s. 65 or 66 to the court by filing a notice of appeal within 30 calendar days after receiving the decision.

2.2. If the Registrar believes that a finding could be made under s. 65 or 66 with respect to a medical corporation, the Registrar may request the Executive Committee determine whether any action, including the suspension or cancellation of the medical corporation's permit or other alternative action, should be taken pursuant to s. 65 or

66 of the RHPA. The Registrar's request must include grounds for the request and relevant records relied upon.

2.3. The Registrar will provide the medical corporation with a copy of its request to the Executive Committee, the grounds for its request and relevant records relied upon and written notice that the Executive Committee is considering suspending or cancelling its permit pursuant to s. 65 or taking other action under s. 66 and invite the corporation to make a written submission.

2.4. Where the corporation elects to make a written submission, the corporation must provide 10 copies of the submission and any supporting documentation.

3. Procedural requirements for hearings

3.1. The following procedural requirements apply to any hearing to which this practice directive applies.

4. Date for hearing section 60(7) appeals or matters under section 65 or 66 of the RHPA

4.1. Upon receipt of a request from the Registrar related to a s. 65 or 66 matter or upon receipt of a notice of appeal under s. 60(7) of the RHPA, the President will schedule a hearing date for the hearing of the matter in accordance with the following principles:

4.1.1. Unless the President otherwise directs, the hearing will be scheduled for the next available regularly scheduled meeting of the Executive Committee.

4.1.2. Where, in the sole opinion of the President, the request/notice of appeal is received too near the date of the next regularly scheduled Executive Committee meeting to reasonably permit the appeal material/request material to be assembled and the other requirements of this Practice Direction to be met, the President may schedule the hearing for a subsequent regularly scheduled Executive Committee meeting.

4.1.3. Where, in the sole opinion of the President, the hearing should be scheduled earlier for any reason, the President will schedule a meeting of the Executive Committee for an earlier date within the required time for the purpose of the hearing.

5. Hearing material – Section 60(7) appeals and section 65 and 66 matters

5.1. The Registrar must assemble the following material for submission to Executive Committee in relation to the appeal of a decision by the Registrar under s. 60(5) of the RHPA:

5.1.1. each record relied upon by the Registrar in reaching the decision being appealed,

- 5.1.2. the Registrar's s. 60(6) notice of decision to the corporation advising of the reasons for the decision being appealed,
- 5.1.3. the notice of appeal and any written submission filed by the corporation.

5.2. The Registrar must assemble the following material for submission to Executive Committee in relation to a request for a determination by the Executive Committee whether to cancel or suspend a corporation's permit under s. 65 or take other action pursuant to s. 66 of the RHPA:

- 5.2.1. the notice to the corporation from the Registrar and the grounds for cancellation, suspension or other alternative action pursuant to either s. 65 or 66 of the RHPA;
- 5.2.2. relevant records relied upon by the Registrar; and
- 5.2.3. any written submission by the corporation, including any records provided in support of the corporation's submission.

6. Opportunity to review

6.1. The Registrar must provide to the corporation:

- 6.1.1. a complete copy of the appeal material and the index of material to be submitted to Executive Committee.
- 6.1.2. an opportunity to comment on the appeal material and on whether any additional items should be included in the material submitted to Executive Committee.

6.2. If there is any dispute as to the content of the appeal material, particulars of that dispute shall be provided to the legal counsel for the Executive Committee, who is responsible for giving advice to the President as to the resolution of the dispute.

7. Deadline for Submission of Material

- 7.1. All appeal materials must be supplied to the Executive Committee at least one week in advance of the scheduled hearing date.
- 7.2. The President shall have the discretion to determine whether to accept any material filed outside of this deadline.

8. Hearing

- 8.1. The Registrar shall be excluded from the hearing in relation to the appeal.
- 8.2. The Executive Committee is not required to hold an oral hearing or to afford any person an opportunity to make an oral submission before making a decision.

- 8.3. The Executive Committee may have legal counsel to assist it in relation to appeals under s. 60(7) of the RHPA or s. 65 or 66 matters.
- 8.4. The Executive Committee may request any additional information it deems necessary and, may adjourn the hearing to request the additional information from the Registrar and the corporation.

9. Executive Committee Decision

- 9.1. In the case of an appeal, the Executive Committee must either dismiss the appeal or make any decision of the Registrar or make any decision the Registrar could have made.
- 9.2. In the case of a decision under s. 65 or 66, the Executive Committee may suspend or cancel the permit or take any other action it considers appropriate pursuant to s. 66 of the RHPA or take no action.
- 9.3. The decision of the Executive Committee shall be communicated to the Registrar and the corporation in writing by way of a Notice of Decision and Reasons for Decision.
- 9.4. The corporation should be informed of its right of appeal to the court pursuant to the RHPA, where applicable.
- 9.5. The reasons for decision, including the name of the medical corporation, will be published by the College unless otherwise ordered by the Executive Committee.