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Registration Committee Procedures Manual

Purpose

Registration Committee (RC) is the statutory committee of the College that handles applications for registration (including transfers between registration categories) referred by the Registrar under the *Health Professions Procedural Code* (the “Code”) and O. Reg. 67/15: REGISTRATION (the “Registration Regulation”).

The purpose of this document is to provide guidance to RC and its staff. However, all cases are different and there may be circumstances in which RC or its staff may not feel that it is necessary or appropriate to follow the guidance provided here. It would be prudent to discuss such a matter with senior management or legal counsel before departing from the guidance contained in this document. However, a departure from the guidance of this document should not be viewed as depriving RC of jurisdiction to deal with any particular matter.

Relevant Legislation

Health Professions Procedural Code
O. Reg. 67/15: REGISTRATION

Scope

This policy applies to members of the Registration Committee and its staff.

Policy

Committee and Panel Composition

1. The composition of RC is specified in the by-laws of the College. As issues can be raised if RC itself is not properly constituted (even if its panels have quorum), RC should ensure that any vacancies are filled immediately. One person on RC is designated its chair.
2. The actual business of RC is conducted through panels appointed by the chair.¹ A panel must be appointed for each case. This can be done by a standing direction of the chair or by an individual appointment in each case. It would be prudent to document these appointments.
3. The panel must consist of at least three members of RC with at least one of those persons being a public member. It is generally prudent to appoint more than three people to a panel so that its business can be conducted even though a panel member is absent. Three members of the panel constitute quorum. Quorum does not require a public member. Thus, if all of the public members are absent from a meeting, the remainder of the panel can continue to consider the matter so long as there are three

¹ *Health Professions Procedural Code*, ss. 17(1).

panel members present.² However, the panel should consider the significance of the decision it is making and, if it has important public interest aspects, the panel should consider deferring it until the public member can be present.

4. Not all RC panel members have to be present at every meeting. A panel member can miss a meeting and still participate in the next meeting considering the matter. This approach is permitted because RC is not conducting a hearing (where higher levels of procedural fairness apply) and because the record of RC is all on paper and, thus, can be reviewed by a panel member who misses a meeting. One exception is where a panel has made a formal motion to dispose of a matter. Once a final decision has been made, only those who were present for that decision should be named in the reasons for the panel.
5. Also, there is no provision permitting an RC panel member to continue to serve on a panel when his or her term on RC ends. Thus, when a panel member's term ends, the remaining members of the panel can continue with the matter (if quorum remains) or the chair can select a new panel to deal with the matter. Where the chair appoints a new panel, the new panel can contain some or all the remaining available members from the previous panel.

Appearance of Bias / Conflicts of Interest

6. No member of a panel shall have an appearance of bias. This is sometimes called a conflict of interest. An appearance of bias can relate to not only the applicant, but also in respect of any key third parties associated with the application. An appearance of bias can also relate to the issues or subject matter of the concerns. An appearance of bias may be actual, potential or perceived. There is a continuing duty for panel members and staff to monitor any appearance of bias.
7. An appearance of bias occurs where a panel member has a connection to a person or organization associated with the application or an issue raised in the application that would cause a reasonable person, who was aware of all of the facts, to conclude that the panel member would not be able to make a fair and impartial decision in the matter. Examples include the following:
 - (i) Prior involvement with the applicant or application.
 - (ii) Having a personal interest or some possible benefit or prejudice in the outcome of the application (e.g., the applicant practices in one's community.
 - (iii) Having a material personal, family or work relationship with a participant in the matter (e.g., the applicant is a student of a panel member's spouse or the panel member works in the same facility as the applicant).

² *Health Professions Procedural Code*, ss. 17(3).

8. An appearance of bias can also result from a panel member's strong emotional reaction to an application, or their having taken a public stand on an issue raised in the application.
9. One must bring judgment and proportionality to the analysis of whether the connection creates an appearance of bias. Some connections are too remote. For example, that one has met the applicant or their supervisor at professional conferences and professional functions in the past does not, by itself, create an appearance of bias. Similarly, that one served on a panel that dealt with a previous application by the applicant does not normally create grounds for disqualification. Having said that, it is easier to step aside from a matter than to become the ground of legal challenge later.
10. Where there is any doubt about the matter, an RC member should declare the connection to staff and, where appropriate, to the other members of the panel. This will allow collective wisdom to be brought to the situation. There may be aspects of the connection that one has not fully considered. There is nothing wrong with acknowledging that one has a connection to the matter and declining to participate in the matter for the benefit of the process. Doing so is preferable to being challenged for an appearance of bias that should have been declared.
11. Where an RC member has an appearance of bias, he or she should leave the room whenever the matter is discussed and should not receive any additional materials.

Continuity of Deliberation

12. If deliberation needs to be continued beyond one meeting of the panel, the same panel should resume deliberation at a subsequent meeting.

Decision by Motion

13. Decisions at a panel meeting concerning an application shall be formalized by motion. While it is preferable for the panel to reach consensus before voting on a motion, the majority of votes rules. The written Decision and Reasons of the panel does not distinguish dissenting opinions. Arguments against the decision reached may be framed in the written Decision and Reasons as arguments considered but found not to be persuasive.
14. In the rare event of a tie vote that is not resolved during a meeting, the Chair of RC should be asked to appoint an additional member of RC to the panel. This is to prevent a tie vote from occurring at the next meeting where the application is considered.

Written Decisions and Reasons

15. Where a written Decision and Reasons is required by the Code, RC staff or contract reason-writers shall prepare a draft written Decision and Reasons based on notes of the panel's deliberations recorded during the panel's meeting(s).

16. The Chair shall review the draft written Decision & Reasons on behalf of the panel. Provided the draft written Decision and Reasons reflects the deliberation and decision of the panel, the Chair may approve the draft and permit RC staff to apply the Chair's scanned signature to the final written Decision and Reasons.
17. Rarely, significant new information arises following a formal motion deciding an application but before the written Decision & Reasons is issued to the applicant. If there is a significant possibility that the new information could warrant a different decision, RC staff may present the application for further deliberation by the panel. For clarity, the application should be returned to the same panel because the panel has not yet issued a final decision.

Re-referral to Registration Committee Following Written Decisions and Reasons

18. Rarely, significant new information arises following issuance of written Decision & Reasons, but before the Health Professions Appeal and Review Board (HPARB) begins deliberating on the application during an appeal. If there is a significant possibility that the new information could warrant a different decision, RC staff may, provided the applicant agrees, present the application for further deliberation by the panel. RC staff or counsel shall ensure any appeal is withdrawn before presenting the application for further deliberation by the panel.
19. For clarity, the application should be returned to the same panel that issued the written Decision and Reasons because they are already familiar with the file and they are in the best position to judge whether the new information warrants a different decision.

Referral to Registration Committee Following Appeal Decision

20. Where HPARB returns an application to RC, RC staff shall disclose to the applicant, for response, the information the panel will rely upon in reconsidering the application. This information shall include the information relied upon by the panel in making its previous decision(s) (i.e., the previous "Panel Package(s)"), previous RC written Decisions and Reasons, the HPARB written Decisions and Reasons, and key documents submitted during the appeal, if any. Key documents include those which are likely to influence the panel's decision but are not adequately described in HPARB's Decision and Reasons.
21. RC staff shall give the applicant 30 days to make submissions to the panel.
22. A differently constituted panel should consider the application returned by HPARB. This is to promote objectivity in responding to recommendations by HPARB.