Disciplinary Panel Rules of Procedure

These Disciplinary Panel Rules of Procedure, prepared in cooperation between the College of Physicians and Surgeons of Newfoundland and Labrador (CPSNL) and the College of Pharmacy of Newfoundland and Labrador (CPNL), have been developed to provide a consistent, standardized set of procedural rules to support the administration of regulatory discipline processes.

1. Application of the Rules

(1) These Rules apply to all Proceedings before any Tribunal.

(2) These Rules shall be liberally construed in accordance with the principles of natural justice to ensure the just, most expeditious, and cost-effective determination of every Complaint referred to a Disciplinary Panel. Decisions shall be made in the public interest and take particular attention of the need to be accessible to all, including disadvantaged and vulnerable individuals and groups.

(3) Where there is a conflict between the Act and these Rules, the Act shall prevail.

(4) All Orders made under these Rules shall be proportionate to the importance and complexity of the issues in dispute.

(5) The Tribunal may waive any Rule, change any time limit or due date, or excuse the failure to follow a Rule or time limit, unless this is not permitted by the Act or other legislation, or it is clear from the context that a specific Rule must always be followed.

(6) A Party may apply for the waiver of a Rule by filing a Motion in accordance with Rule 9.

(7) Where matters are not provided for in the Rules, they shall be determined in a manner consistent with the Rules and the Act.

1.1. Respectful Communication

(1) All documents filed and all written and oral communications with the Tribunal must be relevant to the Proceeding and respectful to all Participants and to the Tribunal.

1.2. Definitions

(1) Unless the context otherwise requires or a separate definition is provided, words and phrases defined in the Act, or the Regulations or By-Laws passed pursuant to the Act, have the same meaning in these Rules.

(2) Words imparting the singular shall include the plural and vice versa.

(3) These are the definitions for terms and expressions used in these Rules:

(a) "Act" means the enabling legislation of the Regulator;

(b) "Business Day" means any day that is not a Saturday, Sunday, Government of Newfoundland and Labrador Paid Holiday, or another day on which the Regulator's office is closed, including the days between Christmas Eve and New Year's Day inclusive;

(c) "Complaint" means an allegation referred to the Tribunal in accordance with the Act;

(d) "Deliver" means to provide to the Tribunal or serve on another Party, Participant, or person who has filed a request to participate pursuant to Rule 5, and "delivery" and "delivering" have corresponding meanings;

(e) "Document" includes a sound recording, video tape, electronic media, paper writing and printing, file, photograph, chart, graph, plan, map, survey, book of account and information recorded or stored by means of any device;

(f) "Disciplinary Panel" means the disciplinary panel as appointed in accordance with the Act;

(g) "Disciplinary Panel Chair" means the chairperson of the Disciplinary Panel as appointed in accordance with the Act;

(h) "Hearing" means the process by which the Tribunal hears a Complaint;

(i) "Hybrid Proceeding" means a Proceeding or part of a Proceeding that is conducted with some Participants appearing in-person and some Participants appearing remotely;

(j) "In-Person Proceeding" means a Proceeding or part of a Proceeding with all Participants appearing in the same physical location;

(k) "Motion" means a request made to a Tribunal for an Order pursuant to Rule 9;

(l) "Motion Record" means all materials filed in support of a Motion, including but not limited to, Documents, communications, correspondence, and filings;

(m) "Order" means any decision made by the Tribunal;

(n) "Party" means the Regulator and/or the Respondent (collectively "the Parties");

(o) "Participant" means a Party or any other person with a right to participate in the Proceeding or part of the Proceeding pursuant to Rule 5;

(p) "Personal Health Information" has the meaning in s. 5 of the *Newfoundland and Labrador Personal Health Information Protection Act*;

(q) "Proceeding" includes all steps in a matter before the Tribunal, including but not limited to, Case Management, Motions, and Hearings;

(r) "Regulator" means the regulatory authority established by the Act to regulate the profession of the Respondent and includes its representatives;

(s) "Regulator's Counsel" means the lawyer representing the Regulator during a Proceeding;

(t) "Remote Proceeding" means a Proceeding or part of a Proceeding held electronically by videoconference, teleconference, or in writing;

(u) "Respondent" means the registrant or former registrant against whom a Complaint is filed;

(v) "Respondent's Counsel" means the lawyer representing the Respondent during a Proceeding;

(w) "Tribunal" means the members of an adjudication tribunal of a Regulator as appointed by the Disciplinary Panel Chair pursuant to the Act to conduct a Proceeding;

(x) "Tribunal Chair" means the chairperson of the Tribunal as appointed by the Disciplinary Panel Chair;

(y) "Tribunal's Counsel" means the lawyer acting on behalf of the Tribunal during a Proceeding;

(z) "Victim" means a person who has been adversely impacted by the conduct of the Respondent;

(aa) "Victim Impact Statement" means a statement submitted to the Tribunal in accordance with Rule 11.5; and

(bb) "Vulnerable Witness" means a witness who, in the opinion of the Tribunal, may have difficulty testifying, or may have difficulty testifying in the presence of a Participant.

1.3. Counting Time

(1) In these Rules or in an Order of the Tribunal, unless a contrary Order is given by the Tribunal, time will be counted as follows:

(2) When counting the number of days between two events, the day the first event happens is not counted and the day the second event happens is counted.

(3) When the deadline to do something is less than seven days, only Business Days are counted.

(4) When the deadline to do something falls on a day that is not a Business Day, the deadline moves to the next Business Day.

(5) When a Document is Delivered or filed after 4:00 p.m. on a Business Day, or on a day that is not a Business Day, the Document is considered Delivered or filed on the next Business Day.

2. Documents and Communications

(1) Documents and communications may be filed with the Tribunal by:

(a) Email to the Tribunal's Counsel.

(b) Secure file transfer service.

(c) Another method directed or permitted by the Tribunal.

(2) Documents and communications may be provided to a Participant by:

(a) Email to the Participant's counsel.

(b) Secure file transfer service.

(c) Another method agreed to by the recipient.

(3) Documents and communications filed with the Tribunal shall be Delivered to all Parties and to any other Participants where directed by the Tribunal.

(4) Proof of Delivery shall be interpreted in accordance with the relevant section on notices in the Act, where applicable.

(5) This Rule does not apply to summonses, which must comply with Rule 10.

(6) Documents filed with the Tribunal must comply with the following:

(a) All electronic Documents must be text searchable.

(b) The preferred Document format is PDF; other formats (e.g., .docx, .ppt., .xlsx) may be accepted at the discretion of the Tribunal.

(c) Documents should be no more than 500 pages; Documents longer than 500 pages must be separated into numbered volumes of no more than 500 pages each.

(d) Factums, written submissions, books of Documents and books of authorities must be page numbered and include an index or table of contents.

(e) Page numbers must start from 1, beginning with the first or title page, so that numbers correspond with page numbers in the PDF file.

(f) If a file contains more than one Document, each Document must be numbered and bookmarked;

(g) If an electronic Document is a scanned copy of a physical document, it must be scanned at a minimum of 300 dpi and in colour (not grayscale), where possible.

(h) File names for all electronic Documents must start with one of the two or three letter Document codes set out in Appendix C below, or a longer name describing the document if there is no applicable code.

(i) File names must include the Tribunal file number and indicate which Participant is filing the Documents.

(j) File names must use the following format: **CODE_Participant_FileName_FileNumber.**

(k) Emailed filings must include a description of the Document(s) in the subject line, the Tribunal file number and the file name.

(l) In cases where it is necessary to produce the original physical Document, where a physical Document is filed, an electronic copy must still be filed, if possible.

3. Mode of Proceedings

3.1. Determination of Mode

(1) Proceedings will be in the mode chosen by the Tribunal after considering the positions of the Parties, subject to Rule 3.1(2) and 3.1(3).

(2) Case Management Conferences will be conducted remotely unless the Tribunal directs otherwise.

(3) In determining the mode of a Proceeding, the Tribunal may consider any relevant factors, including:

(a) The nature and subject matter of the Proceeding and the issues to be addressed, including whether they are issues of fact, law, or procedure.

(b) The evidence to be presented, including whether facts are in dispute or credibility is an issue.

(c) The cost, efficiency, and timeliness of the Proceeding.

(d) The fairness and convenience of the Proceeding process to the Participants.

(e) Openness of the Proceedings.

(f) Cost of in-person attendance by witnesses.

3.2. Openness

(1) Hearings before a Tribunal are open to the public, unless the Tribunal excludes the public from part or all of the Hearing in accordance with the Act.

(2) Pursuant to the Act, the Tribunal may exclude the public from a Hearing, or from part of it, where the importance of protecting a Participant from disclosure of personal matters outweighs the importance of holding the Hearing in public.

(3) A Participant may apply for a closed Hearing by filing a Motion in accordance with Rule 9.

(4) Case Management Conferences are not open to the public.

(5) During public Hearings and in the submission of Documents to the Tribunal, Participants should refrain from including any identifying information, personal information, or Personal Health Information that is not necessary to the Tribunal's decision or otherwise ordered by the Tribunal.

(6) The Tribunal may:

(a) Restrict access to Documents and exhibits.

(b) Require Participants to redact personal or sensitive information from Documents filed with the Tribunal.

(c) In addition to the restrictions in Rule 3.2(5), make an Order that no one shall publish or broadcast certain information.

(d) Make an Order that some or all of the Hearing be closed to the public where:

(i) Matters involving public security may be disclosed.

(ii) Financial or personal or other matters may be disclosed that are of such a nature that the harm created by disclosure would outweigh the desirability of adhering to the principle that Hearings be open to the public.

(iii) A person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced.

(iv) The safety of a person may be jeopardized.

(7) When making any Order restricting openness, the Tribunal must be satisfied that:

(a) Openness poses a serious risk to an important public interest.

(b) Reasonable alternative measures will not address this risk.

(c) The benefits of the Order outweigh its negative effects on openness.

3.3. Publication Ban

(1) No one shall publish or broadcast the names of individuals other than the Respondent or any information that could identify individuals other than the Respondent, except in accordance with the Act.

3.4. Public Record of Proceedings

(1) The public record of a Proceeding consists of the following Documents, subject to Rules 3.2(6) and 3.2(7):

(a) Notices of Hearing, Admission Statements, Agreed Statements of Fact, and Joint Submissions on Sanction filed with the Tribunal.

(b) Any other Document(s) that the Tribunal orders be part of the public record of the Hearing.

(2) All Documents in the public record of the Hearing must be reviewed and redacted by the Regulator as appropriate prior to release to any requesting person.

3.5. Recordings and Transcripts

(1) Case Management Conferences are not recorded unless the Tribunal directs otherwise.

(2) The Regulator shall record, or engage a reporting service or software to record, all Hearings other than Hearings that occur entirely in writing; the Regulator is not required to transcribe or obtain a transcript of the recording unless the Tribunal directs otherwise.

(3) No other person or entity is permitted to record or transmit any Proceedings.

(4) The recording of a Hearing is not part of the public record and shall not be disclosed to anyone other than the Tribunal, the Parties, or the Supreme Court.

(5) The Tribunal or a Party may request a copy of the recording and/or a transcript of the Hearing or part of the Hearing.

(6) Where the Tribunal requests a copy of the recording and/or a transcript, the Regulator shall bear the initial cost, and the copy and/or transcript shall be provided to all Parties. Where a Party requests a copy of the recording and/or a transcript, that Party shall bear the initial cost, and the copy and/or transcript shall be provided to the Tribunal and all Parties.

(7) Where a copy of the recording and/or a transcript is obtained, the Tribunal may make any Order it deems appropriate with respect to the cost of obtaining the recording and/or transcript in its decision on sanction.

3.6. Public Attendance at In-Person Hearings

(1) All persons attending an In-Person Hearing, or attending a Hybrid Proceeding in-person, must sign an attendance sheet and may be required to show the contents of pockets, bags, etc. prior to entering the Hearing room.

(2) No weapons, food, or beverages other than water in a sealed container are permitted in a Hearing room unless otherwise permitted by the Tribunal.

(3) The Tribunal may limit the number of persons in attendance at a Hearing to a number that is consistent with the appropriate functioning and decorum of the Hearing. Where space is limited, entry will be on a first-come-first-served basis.

(4) Members of the public arriving late will not be permitted to enter the Hearing room once the Hearing has begun.

(5) Members of the public may not speak, whisper, or otherwise cause a disruption while a Hearing is in session, and all sound-making devices must be put in silent mode.

(6) No electronic devices, including but not limited to, cameras, recording devices, communication devices, computers, or cell phones may be used during a Hearing.

(7) The Tribunal may refuse entry to or exclude any person from the Hearing room if they refuse to comply with these Rules or with any other request or Order made by the Tribunal to preserve the functioning and decorum of the Hearing.

3.7. Public Attendance at Remote Hearings

(1) All persons attending a Remote Hearing, or attending a Hybrid Proceeding remotely, must pre-register to attend.

(2) Where a Hearing is held remotely or in a hybrid manner, members of the public attending remotely must enter the Hearing at least five minutes prior to the scheduled start time and identify themselves on screen using their first and last name, where applicable.

(3) Members of the public must keep their cameras off and their microphones muted for the duration of the Hearing.

(4) The Tribunal may refuse entry to or exclude any person from the Hearing if they refuse to comply with these Rules or with any other request or Order made by the Tribunal to preserve the functioning and decorum of the Hearing.

3.8. Accommodation and Language

(1) Participants in Proceedings are entitled to accommodation of needs as protected in the *Human Rights Act, 2010*. The Tribunal must be notified of a need for accommodation as soon as possible.

(2) All proceedings shall be conducted in English.

(3) Written communications with the Tribunal must be in English.

(4) A Participant intending to call a witness whose testimony will require interpretation must file a Motion requesting the use of interpretation services as soon as possible and, in any event, no later than thirty (30) days before the day on which the witness will testify.

(5) Where the Tribunal approves the use of interpretation services, those services will be arranged by the Regulator.

(6) Documents provided in a language other than English shall be accompanied by a translation of the Document into English. The translation must be prepared by a qualified translator who certifies that the translation is true and accurate to the best

of the translator's skill and ability. The Participant or person providing the Document is responsible for the cost of its translation.

4. Notice of Hearing

(1) The Tribunal Chair shall Deliver notice of the Hearing to the Respondent at least thirty (30) days in advance of the first scheduled date of the Hearing. The notice of Hearing to the Respondent shall include the date, time, and location or means of remote attendance at the Hearing.

(2) Unless a Hearing has been closed to the public pursuant to Rule 3.2, the Regulator shall provide notice of the Hearing to the public at least ten (10) days in advance of the first scheduled date of the Hearing. The public notice of Hearing shall, at a minimum, be posted on the Regulator's website and include: the name of the Respondent and their registration/license number with the Regulator; the date, time, and location or means of remote attendance at the Hearing; and notice of Rules 3.2, 3.6, and 3.7 respecting public attendance at Hearings.

(3) Where a Participant has been Delivered notice of a Hearing and does not attend or participate, the Tribunal may proceed in their absence, and that Participant is not entitled to any further notice in the Proceeding.

5. Additional Participants

(1) The Tribunal may permit a person to participate in a Proceeding and direct the terms of such participation.

(2) A request to participate shall be made as a Motion to the Tribunal, setting out the requestor's interest in the Proceeding, together with any evidence to support that interest. The request must be made as soon as possible after the person becomes aware of the Proceeding or their interest.

6. Regulator Disclosure in Discipline Proceedings

(1) The Regulator shall disclose all potentially relevant Documents and things in its possession or control to the Respondent before the date scheduled for the Case Management Conference.

(2) At the time of disclosure, the Regulator must identify any potentially relevant Documents, not yet in its possession but on which it expects to rely.

(3) A Respondent seeking further Documents from the Regulator shall file a Motion after receiving the Regulator's disclosure. The Motion Record shall include prior correspondence requesting the Documents from the Regulator and the Regulator's response.

(4) The Regulator shall disclose all further potentially relevant Documents as soon as possible after receiving or creating them.

(5) Disclosure shall only be shared or distributed for the purposes of the Proceeding or as required by law, unless the Tribunal orders otherwise. The Tribunal may place additional conditions on the use of disclosure Documents.

7. Case Management

(1) A Case Management Conference will be held prior to every Hearing.

(2) Participants in the Case Management Conference may include the Tribunal's Counsel, the Regulator's Counsel, the Respondent's Counsel, and/or the Respondent themselves, if unrepresented by counsel, and any other relevant Participants where directed by the Tribunal. The Tribunal's Counsel will act as the Case Management Chair.

(3) Case Management Conferences are held by videoconference unless the Tribunal directs otherwise.

(4) The Case Management Chair may, at a Party's request or on its own initiative, hold additional Case Management Conferences at any time during a Proceeding.

(5) Discussions of possible resolution during the Case Management Conference are without prejudice and may not be disclosed by anyone unless the Parties and the Tribunal agree, or disclosure is required by law.

(6) Each Party must be prepared to discuss the following at the Case Management Conference:

(a) Estimated number of Hearing days needed for that Party's case.

(b) Available dates for the Hearing.

(c) Expert witnesses the Party intends to call and on what issues.

(d) Intended witnesses the Party intends to call.

(e) Any intended pre-Hearing Motions.

(f) Summons requested to be issued by the Tribunal.

(g) The Party's position on settlement.

(h) The Party's position on sanction.

(7) The Case Management Chair may assist the Parties in reaching agreement on matters which will contribute to the efficient management of the Proceeding, including but not limited to:

(a) Scheduling Motion and Hearing dates.

(b) Setting times for steps in the Proceeding.

(c) Requests for lists of all Documents a Party may use in evidence, a list of intended witnesses and a summary of each witness's intended evidence. Summaries may consist of a prior statement.

(d) Disclosure and production of Documents, including dates.

(e) Permitting a witness to provide their evidence in chief by affidavit.

(f) Setting the time for Delivery of expert reports.

(g) Requests to exclude the public from part or all of the Hearing.

(h) Exploring resolution through Agreed Statements of Facts, Admission Statements, and/or a Joint Submissions on Sanction.

(8) The Tribunal may make a Case Management Order at any time on their own initiative or following oral or written communications or submissions from Participants.

8. Adjournments

(1) Once Hearing or Motion dates are scheduled, Parties are expected to be ready to proceed on those dates. Adjournments are only granted by the Tribunal where it is necessary for a fair Hearing.

(2) A Motion to adjourn must be made in writing as soon as the need for it arises unless a written request is impossible. The requestor must explain why the adjournment is necessary, identify the exceptional circumstances supporting the request, and

include the other Party's position and availability for alternate Hearing dates or explain why it was impossible to obtain that information from the other Party.

9. Motions

(1) A Motion shall be made in writing by Notice of Motion to the Tribunal through Tribunal's Counsel.

(2) The default procedure for Motions will be Remote Proceedings conducted in writing, unless the Motion includes a request that an In-Person Hearing or Remote Hearing (not in writing) be held, or if the Tribunal directs otherwise.

9.2. Motion Materials

(1) Evidence on a Motion shall be by affidavit. Where cross-examination on an affidavit is requested by a Participant, cross-examination will occur at a Hearing of the Motion unless the Tribunal directs otherwise.

(2) The moving Participant shall file a Motion Record that includes the Notice of Motion and affidavits in support of the Motion. The moving Party may also file a factum and book of authorities.

(3) The responding Participant(s) may file a responding Motion Record containing any responding affidavits, and a responding factum and book of authorities.

(4) Deadlines for Delivering and filing Motion materials shall be set by the Tribunal or agreed upon at a Case Management Conference.

10. Hearing Preparation

10.1. Summons

(1) Each Participant is responsible for making sure that their witness(es) comes to the Hearing on the date set for hearing the witness' evidence.

(2) A Participant may request a summons from the Tribunal through Tribunal's Counsel.

(3) A request for a summons must include the name of the witness, the address of the witness, and a list of any Documents that the witness must bring with them.

(4) The Tribunal may require that the Participant requesting the summons explain how the witness or Documents sought are likely relevant to an issue in the Proceeding or

the competence of a witness to testify in the Hearing, and why their production is necessary in the interest of natural justice.

(5) Third-party records ordered to be produced shall only be shared or distributed for the purposes of the Proceeding or as required by law, unless the Tribunal orders otherwise. The Tribunal may place additional conditions on the use of third-party records.

(6) Service of a summons on a witness and payment of the necessary attendance money, in accordance with the Regulator's tariff of fees (where applicable), is the responsibility of the Participant requesting the summons.

(7) If a witness is not summonsed in accordance with these Rules, and the witness does not attend, the Hearing will proceed without hearing evidence from that witness unless the Tribunal directs otherwise.

(8) The procedure for summonsing a witness is as follows:

(a) A summons must be requested as soon as the requesting Participant becomes aware that it is required.

(b) If the Tribunal agrees to issue a summons, the Tribunal Chair will sign, date, and return the summons to the requesting Participant for Delivery to the witness.

(c) A summons must be Delivered to the witness no less than thirty (30) days before the witness is required to attend a Hearing, unless otherwise directed by the Tribunal.

(9) If a properly summonsed witness does not attend a Hearing, the requesting Participant must prove that the witness was summonsed in accordance with Rule 10.1(8).

(10) If the Tribunal is satisfied that the witness was summonsed in accordance with the Rules, the Tribunal may request a warrant for the arrest of the witness in accordance with the *Public Inquiries Act, 2006*.

10.2. Agreed Statement of Facts

(1) The Tribunal shall accept and rely on any facts agreed to by the Parties without further proof or evidence.

(2) The Parties' Agreed Statement of Facts shall be filed with the Tribunal through Tribunal's Counsel as soon as possible after agreement is reached and, in any event, no later than seven (7) days before the Hearing begins.

10.3. Requests to Admit

(1) The Regulator may Deliver to the Respondent a request to admit asking the Respondent to admit the truth of facts or the authenticity of Documents for the purposes of a Proceeding.

(2) The Respondent must Deliver a completed response to the request no later than fourteen (14) days after the date the request to admit was Delivered, unless the Tribunal directs otherwise.

(3) Where the Respondent fails to respond to the request to admit or their response fails to specifically deny or refuse to admit the truth of a fact or the authenticity of a Document, the Respondent is deemed, for the purposes of the Proceeding, to admit the truth of the facts or the authenticity of the Documents.

(4) A Respondent who has received a request to admit and who does not attend the Hearing is deemed to admit, for the purposes of the Proceeding, the truth of the facts or the authenticity of the Documents mentioned in the request to admit, despite having Delivered a response.

(5) If a Respondent denies or refuses to admit the truth of a fact or the authenticity of a Document after receiving a request to admit, and the fact or Document is subsequently proved, the Tribunal shall take the denial or refusal into account in exercising its discretion respecting costs.

(6) A request to admit may not be Delivered less than thirty (30) days before the scheduled date of the Hearing.

10.4. Experts

(1) A Party who intends to rely upon an expert report must Deliver the report(s) to the responding Party no less than one hundred and twenty (120) days prior to the Hearing date.

(2) No later than sixty (60) days after the receiving an expert report, the receiving Party must Deliver any reply reports to the other Party.

(3) A Party that objects to the admissibility of some or all evidence set out in an expert report, whether based on qualifications, relevance and/or impartiality shall advise the other Party and the Tribunal of their objection no later than sixty (60) days after receiving it.

10.5. Treating Healthcare Providers

(1) A treating healthcare provider who testifies only about treatment provided is not required to prepare an expert report.

(2) A Party calling a treating healthcare provider as a witness shall provide the records and notes of the witness to the other Party as soon as possible.

10.6. Illegible Notes

(1) A Participant shall transcribe any illegible notes and records for the other Participant(s) on request. The Participant providing the transcription will bear the cost.

10.7. Amending the Complaint

(1) The Regulator may amend the Complaint before the Hearing commences, by giving written notice to the Respondent and the Tribunal.

(2) The Tribunal may amend the Complaint after the Hearing has commenced on a Motion filed by the Regulator to correct an alleged defect in substance or form. The Tribunal shall not amend the Complaint until the Parties have been given the opportunity to make submissions respecting the proposed amendment.

11. Hearings

11.1. Hearing Management

(1) The Tribunal may:

(a) Schedule or adjourn an appearance.

(b) Set timelines or deadlines for steps in the Hearing.

(c) Direct Participants to make written submissions.

(d) Set time limits for oral submissions and page limits for written submissions.

(e) Give any other Orders necessary to ensure the Hearing proceeds fairly and efficiently.

(2) The Tribunal shall not permit cross-examination that is abusive, repetitive or otherwise inappropriate. The Tribunal may limit further examination or cross-examination where satisfied that the examination or cross-examination is sufficient to disclose fully and fairly all matters relevant to the issues in dispute.

11.2. Conduct of the Hearing

(1) Unless otherwise directed by the Tribunal, a Hearing will generally be conducted in the following order:

(a) The Regulator will be provided with the opportunity to make opening statements.

(b) The Respondent will be provided with the opportunity to make opening statements.

(c) The Regulator will present its' evidence and examine its' witnesses, who may be cross-examined by the Respondent.

(d) If the Respondent has not already done so, the Respondent will be provided with an opportunity to make opening statements.

(e) The Respondent will present their evidence and examine their witnesses, who may be cross-examined by the Regulator.

(f) The Regulator may present evidence in reply to any evidence presented for the first time by the Respondent and examine witnesses.

(g) After cross-examination of a witness, the Participant who called the witness may further examine the witness with respect to matters raised for the first time in cross-examination.

(h) Following examination and cross-examination of a witness, the Tribunal may ask questions of the witness, and the Parties may ask further questions with respect to matters raised by the Tribunal.

(i) If the Tribunal requests or permits, the Parties may serve and file, by dates ordered by the Tribunal, additional submissions in writing on the facts and legal argument.

(j) The Regulator may make closing submissions, followed by the Respondent's closing submissions and the Regulator's reply to issues raised by the Respondent.

(2) Participants other than the Parties will participate in the Hearing at the direction of the Tribunal.

(3) The Tribunal may permit a Party to present the evidence of a witness or proof of a particular fact or Document by affidavit. Where another Party reasonably requires the attendance of the witness at the Hearing for cross-examination, the Tribunal may order the witness to attend.

11.3. Pleas of No Contest

(1) A Respondent may plead no contest to one or more Complaints. A plea of no contest is not an admission of the facts or an admission that the facts constitute conduct deserving of sanction, for the purpose of the present Proceeding or any other proceeding.

(2) A Respondent who pleads no contest agrees that, for the purposes of the present Proceeding and not for the purpose of any other proceeding:

(a) The facts contained in a statement of facts submitted by the Regulator shall be accepted and relied upon by the Tribunal.

(b) The Tribunal may find that the facts constitute conduct deserving of sanction.

(c) The Tribunal may make a finding on the Complaint(s) without hearing other evidence.

(3) The Respondent shall confirm on the record, either orally or in writing, their agreement with the provisions of Rule 11.3(2).

(4) A Respondent who pleads no contest may not provide evidence on the merits but may provide submissions on penalty.

11.4. Vulnerable Witnesses

(1) Where it would facilitate a full and candid account of a witness's evidence or otherwise be in the interests of justice, the Tribunal may do one or more of the following:

(a) Permit a support person to sit near a witness while the witness testifies. The Tribunal may direct the conduct of the support person during the witness's testimony.

(b) For a Remote Hearing, direct the Respondent to turn off their video feed or to remain off screen during the witness's testimony.

(c) For an In-Person Hearing, direct that the Hearing room be arranged in such a manner that the witness cannot see the Respondent, or direct that the relevant portion(s) of the Hearing be conducted as a Hybrid Proceeding such that the witness can provide testimony from another location;

(d) Direct that a Respondent not personally cross-examine a witness and in such a case, where the Respondent is unrepresented by counsel, the Tribunal shall appoint counsel to conduct the cross-examination.

11.5. Victim Impact Statements

(1) When determining the sanction(s) to be imposed on a Respondent, the Tribunal shall consider any Victim Impact Statement of a Victim, or the representative of a Victim, prepared in accordance with this Rule and filed with the Tribunal describing the physical or emotional harm, property damage or economic loss suffered by the Victim as the result of the Respondent's conduct and the impact of the conduct on the Victim.

(2) On application of the Regulator or a Victim or on its own initiative, the Tribunal may adjourn the Proceeding to permit the Victim to prepare a Victim Impact Statement.

(3) A Victim Impact Statement must be in writing and can include a description of the harm or loss suffered by the Victim as the result of the Respondent's conduct, as well as a description of the impact that the conduct had on the Victim. The Victim Impact Statement must not include statements about the Respondent or their conduct that is not relevant to the harm or loss suffered, criticisms of other parties, or opinions on appropriate sanction.

(4) The Tribunal shall, on the request of a Victim, permit the Victim to present the Victim Impact Statement by reading it or presenting it in any other manner that the Tribunal considers appropriate.

(5) In considering a Victim Impact Statement, the Tribunal shall take into account the portions of the statement that it considers relevant to the determination referred to in Rule 11.5(1) and disregard any other portion.

(6) Whether or not a Victim Impact Statement has been prepared and filed in accordance with this section, the Tribunal may consider any other evidence concerning any Victim of the conduct for the purpose of determining the sanction to be imposed on the Respondent.

11.6. Proof of Prior Offence or Misconduct

(1) Evidence that a person has, in a proceeding before a court or tribunal in Canada, been found guilty of an offence, conduct deserving of sanction, or equivalent will be accepted by the Tribunal as proof, in the absence of evidence to the contrary, that the offence or conduct was committed by the person, if:

(a) No appeal of the finding of guilt was taken and the time for an appeal has expired; or

(b) An appeal of the finding of guilt was taken but dismissed or abandoned and no further appeal is available.

12. Orders and Reasons

(1) A decision or Order of the Tribunal becomes effective when it is made on the record, even if a written Order or reasons have not yet been prepared or signed.

(2) A decision or Order of the Tribunal that is reserved becomes effective when written notice of the Order or decision is Delivered to the Parties.

(3) The Tribunal may correct typographical errors, errors of calculation or similar minor errors in an Order or reasons.

13. Costs

(1) Where the Regulator seeks costs at or below the rate in Appendix A, it is not required to provide a bill of costs.

(2) Where the Regulator seeks costs above the rate in Tariff A or where the Tribunal has no tariff, it must provide a bill of costs, including invoices or receipts for any disbursements or out of pocket expenses claimed where invoices or receipts are requested by the Respondent.

Acknowledgments

Ontario Health Professions Discipline Tribunals Rules of Procedure

Appendix A: Costs and Expenses for the College to Conduct Hearing

- College of Physicians and Surgeons Discipline Panel - Tariff of Costs for Adjudication Tribunals
- All other Regulators - No Tariff

Appendix B: Rules that Apply to Individual Tribunals

The effective date of these rules for the College of Physicians and Surgeons of Newfoundland and Labrador Discipline Panel is September 12, 2026.

Appendix C: Electronic Document Filing Codes

ASF	Agreed Statement of Facts
AFF	Affidavit
BOA	Book of Authorities
BOC	Bill of Costs
CMM	Case Management Conference Memo
DO	Draft Order
DS	Draft Summons
ER	Expert Report
FAC	Factum
HBR	Hearing Brief
JSS	Joint Submission on Sanction
MBA	Motion Book of Authorities
MFA	Motion Factum
MRD	Motion Record
NAV	Notice of Application to Vary/Suspend/Cancel Tribunal Order
NOH	Notice of Hearing
NOM	Notice of Motion
NPB	Notice of Request for Publication Ban
POD	Proof of Delivery
POM	Proof of Prior Office or Misconduct
ROH	Record of Hearing
RRA	Response to Request to Admit
RTA	Request to Admit
RTP	Request to Participate
SUB	Submissions
TRN	Transcript
VIS	Victim Impact Statement