

Appeals to the Council

Policy Section: Governance Process	Policy Number: GP-9	Approved By: Council
Regular Council Policy Review Frequency: Every five years	Date Approved: March 9, 2018	Date Reviewed/Revised: March 23, 2023

Purpose:

To state the principles which guide appeals to the Council.

Principles:

- 1) The Regulated Health Professions Act (the “RHPA”) requires the Council to hear four different types of appeals:
 - a) Registration applicant appeals - where an initial application for a certificate of registration or an application for renewal of a certificates of practice is not approved or approved subject to conditions – ss. 38 and 39;
 - b) Complainant appeals of Complaints Investigation Committee (the “CIC”) decisions – where a complainant is dissatisfied with certain decisions of the committee – ss. 102, 108, and 109;
 - c) Investigated member appeals of CIC decisions - where an investigated member is interim suspended or has conditions placed on their registration – s. 110; and
 - d) Health Professions Corporation appeals – where a corporation is refused a permit or renewal of a permit or where a permit is issued or renewed subject to conditions – s. 60.
- 2) A panel of the Council (the “Appeal Panel”) will be appointed by the Council chair to hear appeals on behalf of the Council. Appeal Panels will be comprised of at least three Council members, of whom at least one-third are public representatives. A decision or action of the Appeal Panel is to be considered a decision or action of the Council.
- 3) The Appeal Panel retains the authority given to it by the RHPA in respect of appeals and will exercise that authority with the overriding goal of protecting the public interest.
- 4) On an appeal, the Appeal Panel shall consider whether the CEO/Registrar or CIC decision contains an error of law, an error of principle, and/or is not reasonably sustainable based on the information that was available at the time the decision was made. The onus is on the appellant to demonstrate that such an error exists or that the decision is not reasonably sustainable. The standard of review on the appeal is reasonableness. The onus is on the appellant to demonstrate that the CEO/Registrar or CIC decision was unreasonable based on the information available to them at the time the decision was made.
- 5) In assessing whether the decision contains an error of law, an error of principle and/or is not reasonably sustainable, the Appeal Panel shall consider the decision in its entirety, in light of the reasons, the outcome of the decision, and the College’s role in regulating the profession.
- 6) If the appellant is unable to meet the onus, the Appeal Panel shall not substitute its own decision for that of the CEO/Registrar or the CIC even if the Appeal Panel might have made some other decision.

- 7) If the appellant is able to meet the onus, the Appeal Panel may substitute its own decision for that of the CEO/Registrar or the CIC, or may refer the matter back to the CEO/Registrar or the CIC for reconsideration in accordance with the Appeal Panel's decision.
- 8) Where the appellant raises a new issue that was not considered by the CEO/Registrar or the CIC, and the Appeal Panel finds that the issue requires further investigation or consideration, the Appeal Panel may refer the matter back to the CEO/Registrar or the CIC.
- 9) The appeal process must be procedurally fair.
- 10) The Appeal Panel is entitled to set the practice and procedure of hearings before it.
- 11) The Appeal Panel must make its decision based solely on the written submissions provided to it by the parties or, if applicable, the submissions made at the hearing.
- 12) The Appeal Panel shall use a decision-making framework to guide its decision-making.
- 13) The Appeal Panel shall be accountable to the Council to demonstrate compliance with the Council's applicable policies and processes.
- 14) Panel hearings are generally closed sessions. If the appellant requests that the hearing be open to the public, the Appeal Panel will consider the request. The appellant will be asked to acknowledge that they understand that their confidential information would then be shared with those in attendance.
 - a) If a public hearing is granted by the Appeal Panel, any public members in attendance will be there as observers only. As observers, they may not speak to the matter and may not publish or record the proceedings in any way.