

This consolidation is unofficial and is for reference only. For the official version of the regulations, consult the original documents on file with the [Registry of Regulations](#), or refer to the [Royal Gazette Part II](#).

Regulations are amended frequently. Please check the list of [Regulations by Act](#) to see if there are any recent amendments to these regulations filed with the Registry that are not yet included in this consolidation.

Although every effort has been made to ensure the accuracy of this electronic version, the Registry of Regulations assumes no responsibility for any discrepancies that may have resulted from reformatting.

This electronic version is for your personal use and may not be copied for the purposes of resale in this or any other form.

---

## **Respiratory Therapists Regulations**

### **made under Section 10 of the**

### ***Respiratory Therapists Act***

### **S.N.S. 2007, c. 13**

**O.I.C. 2007-659 (December 21, 2007, effective January 1, 2008), N.S. Reg. 460/2007**

## **General**

### **Citation**

**1** These regulations may be cited as the *Respiratory Therapists Regulations*.

### **Definitions**

**2** In these regulations,

- (a) “Act” means the *Respiratory Therapists Act*;
- (b) “competence assessment” means a program approved by the Credentials Committee to assess the competence of applicants or members;
- (c) “licensure year” means a 12-month period determined by the Board;
- (d) “notice of hearing” means the notice of hearing required by Section 46 of the Act.

### **Board must consult and notify of amendments to regulations**

**3** The Board must consult with all of the unions that represent members and must notify all members of any amendments proposed to these regulations, through the College’s official publication.

## **Registration, Licensing and Membership**

### **Information in Register**

**4** In addition to the name of each person eligible to be registered, as required by subsection 11(1) of the Act, the Register must contain all of the following information for each member:

- (a) name and location of school of respiratory therapy attended;
- (b) year member graduated from school of respiratory therapy;
- (c) date of entry in the Register.

**Categories of licences**

5 (1) The following are the categories of licences:

- (a) active-practising;
- (b) active-practising with conditions or restrictions;
- (c) temporary;
- (d) temporary with conditions or restrictions;
- (e) temporary (graduate respiratory therapist).

(2) The roster for each category of licence must be made available to the public.

**Providing evidence to prove registration requirements**

6 A person must satisfy the Credentials Committee that they meet the criteria for registration and for the category of licence that the person applies for.

**Competence assessment**

7 The Credentials Committee may use any of the following methods or tools to assess the competence of an applicant:

- (a) methods such as interviewing, verification of documents, observation, reflective practice, self-assessments and testing;
- (b) tools such as chart audits, self-assessments, written tests and live demonstrations of competency.

**Criteria for registration for graduates of respiratory therapy education programs**

8 (1) The following are the criteria for registration for a graduate of a respiratory therapy education program:

- (a) completion of the registration examination;
- (b) payment of the applicable registration fee;
- (c) if previously licensed in another jurisdiction, current or past registration as a respiratory therapist in the jurisdiction where the applicant last practised;
- (d) demonstration of proficiency in the English language in the manner required by the Credentials Committee;
- (e) meeting the criteria for entry in the active-practising roster in Section 10 or the active-practising with conditions or restrictions roster in Section 12.

(2) If the Credentials Committee is satisfied that an applicant meets all of the criteria under subsection (1), the applicant's name must be entered in the register.

**Criteria for registration for graduates of programs other than respiratory therapy education programs**

- 9 (1)** The following are the criteria for registration for a graduate of a program other than a respiratory therapy education program:
- (a) graduation from a program that qualifies the applicant to be a respiratory therapist or equivalent in the jurisdiction of the program;
  - (b) completion of any competence assessment required by the Credentials Committee;
  - (c) meeting the criteria set out in clauses 8(1)(a) through (e).
- (2)** If the Credentials Committee is satisfied that an applicant meets all of the criteria under subsection (1), the applicant's name must be entered in the Register.

**Criteria for entry in active-practising roster**

**10** The Registrar must record the name of a member in the active-practising roster and issue an active-practising licence to a member who meets all of the following criteria:

- (a) the member has paid the applicable licence fee;
- (b) the member is not currently subject to any disciplinary finding that would prohibit the practice of respiratory therapy;
- (c) the member's ability to practise respiratory therapy is not subject to any conditions or restrictions;
- (d) the member has provided any information the Credentials Committee requires to establish that the applicant has the capacity, competence, capability and character to safely and ethically practise respiratory therapy;
- (e) the member has provided any information the Credentials Committee requires to establish that Section 43 of the Act does not apply to the applicant;
- (f) the member has completed the continuing education credits required by Section 13;
- (g) the member meets one of the following:
  - (i) the member has completed a program under clause 9(1)(a) or any other respiratory therapy education program in the 5 years immediately before the member submitted an application for entry in the active-practising roster,
  - (ii) the member has completed at least 1500 hours practising respiratory therapy in the 4 years immediately before the member submitted an application for entry in the active-practising roster,
  - (iii) in the 5 years immediately before the member submitted an application for entry in the active-practising roster, the member has completed either a Registered Respiratory Therapist Re-entry Program or a competence assessment, as selected by the Credentials Committee,

- (iv) the member is enrolled in and currently attending a respiratory therapy education program and at time of initial enrolment was eligible for entry in the active-practising roster.

### **Entitlements of members in active-practising roster**

**11** A member whose name is in the active-practising roster is entitled to do all of the following:

- (a) use the designation “Respiratory Therapist” or “Registered Respiratory Therapist” or the abbreviation “R.T.”, “RT”, “R.R.T.”, or “RRT” in accordance with Section 21 of the Act;
- (b) practise respiratory therapy;
- (c) if elected, hold office on the Board;
- (d) serve as an appointed member on any committee of the College;
- (e) receive all official College publications;
- (f) attend, participate and vote at meetings of the College.

### **Criteria for entry in active-practising with conditions or restrictions roster**

**12 (1)** The Registrar must record the name of a member in the active-practising with conditions or restrictions roster and issue an active-practising licence with conditions or restrictions to a member who meets all of the criteria for entry in the active-practising roster in Section 10, except the criterion in clause (c), and has conditions or restrictions placed on their licence by one of the following:

- (a) the Registrar, under subsection 14(2) of the Act;
- (b) a decision of the Complaints Committee, the Professional Conduct Committee, the Re-instatement Committee, or the Registration Appeal Committee, or an equivalent committee from another jurisdiction.

**(2)** A member in the active-practising with conditions or restrictions roster is entitled to all of the privileges listed in Section 11, subject to the particular conditions or restrictions that are imposed on their licence.

### **Continuing education credits**

**13** An applicant for an active-practising licence or an active-practising licence with conditions or restrictions must complete the minimum number of continuing education credits established by the Board, in any practice areas determined by the Board.

### **Term and renewal of licence**

**14 (1)** Unless suspended, expired, revoked, or amended as a result of any restrictions or conditions imposed, a licence remains in effect until the end of the licensure year in which it is issued.

**(2)** The Registrar must renew a member’s licence if the member meets all of the

following:

- (a) the member applies for renewal and pays the applicable renewal fee and any penalties incurred for late application;
- (b) the member meets all criteria for entry in the applicable roster, except any requirement to pay fees for initial entry in the roster.

#### **Restrictions or conditions on a previous licence**

**15** Restrictions or conditions imposed on a member's licence that have not expired remain in effect on any new licence issued to the member.

#### **Member removed from roster if licence not renewed**

- 16 (1)** The Registrar must remove the name of a member who does not renew their licence in accordance with subsection 14(2) from the applicable roster effective the day after their licence expires, and the member remains non-active until their name is restored under subsection (2).
- (2)** The Registrar must restore the name of a non-active member referred to in subsection (1) to the applicable roster when the member meets the criteria for entry in the roster and pays any applicable renewal fee and any penalty.

#### **Temporary licence**

- 17 (1)** A temporary licence or a temporary licence with conditions or restrictions issued under Section 15 of the Act ceases to be valid after the earliest of all of the following dates:
- (a) the date the College receives notice that the licence holder is no longer eligible to write the applicable registration examinations;
  - (b) the date that a licence to practise respiratory therapy is issued to the licence holder;
  - (c) the expiry date of the temporary licence;
  - (d) the date the temporary licence is suspended or revoked under the professional conduct process.
- (2)** The Registrar may determine whether the holder of a temporary licence or a temporary licence with conditions or restrictions is authorized to use the designations set out in clause 11(a).

#### **Temporary licence (graduate respiratory therapist)**

- 18 (1)** The Registrar must record the name of a person in the temporary (graduate respiratory therapist) roster and issue a temporary licence (graduate respiratory therapist) to a person who meets all of the following criteria:
- (a) the person has completed a respiratory therapy education program or has an equivalent education as determined by the Credentials Committee, but has not passed the registration examination;

- (b) the person applies to write the registration examination and writes the examination no later than 18 months from the date they complete the program or education required in clause (a);
  - (c) the person does not hold an active-practising licence;
  - (d) the person is not practising respiratory therapy;
  - (e) the person has paid the applicable fee.
- (2) A person who holds a temporary licence (graduate respiratory therapist) may
- (a) practise respiratory therapy only under the general supervision of a registered respiratory therapist; and
  - (b) use the designation “graduate respiratory therapist” or any derivation or abbreviation.
- (3) A person who holds a temporary licence (graduate respiratory therapist) may not delegate any act of respiratory therapy to another person who does not hold a licence under the Act.

### **Categories of affiliation**

**19** The following are the categories of affiliation under the Act:

- (a) non-practising;
- (b) non-active;
- (c) honorary life;
- (d) student;
- (e) honorary.

### **Non-practising members**

**20 (1)** A member is entitled to become a non-practising member if the member meets all of the following criteria:

- (a) the member was at one time eligible for an active-practising licence or an active-practising licence with conditions or restrictions;
- (b) the member is not subject to any disciplinary finding that would prohibit them from practising respiratory therapy;
- (c) the member is not practising respiratory therapy in the Province;
- (d) the member has paid the applicable fee.

(2) A non-practising member is entitled to

- (a) attend and participate in, but not vote at, meetings of the College;

- (b) serve as a member on any committee of the College, but is not eligible for election to the Board; and
- (c) receive all official College publications.

**Non-active members**

- 21 (1)** A member whose name is not on any roster, and who is not a non-practising member, is a non-active member of the College.
- (2) A non-active member is entitled to attend and participate in, but not vote at, meetings of the College.

**Honorary life members**

- 22 (1)** An honorary life membership may be granted by resolution of the Board to a member who has rendered distinguished or valuable service to the profession.
- (2) An honorary life member is entitled to
- (a) remain entered in the applicable roster if the member meets the prescribed criteria for the licence category; and
  - (b) the same rights and privileges as a non-practising member under Section 20.

**Student category**

- 23 (1)** Student affiliation may be granted to any person who
- (a) is currently enrolled as a student in a respiratory therapy education program; and
  - (b) has paid the applicable affiliation fee.
- (2) A person who is granted a student affiliation is a student member.
- (3) A student member is entitled to
- (a) attend and participate in, but not vote at, meetings of the College; and
  - (b) receive all official College publications.

**Honorary category**

- 24 (1)** By resolution of the Board, the Board may grant an honorary affiliation with the College to any person, other than a respiratory therapist, who has rendered distinguished service or valuable assistance to the profession.
- (2) An honorary member is entitled to the same rights and privileges as a non-practising member under Section 20 along with any other rights and privileges the Board may grant.

**Members' records of hours of work**

- 25 (1)** A member must keep a record of the hours that the member worked in the practice of

respiratory therapy that covers at least the immediately previous 4 years.

- (2) The College may at any time conduct an audit of records kept under subsection (1) to ensure the validity of data that is recorded on applications to the College respecting the hours worked in the practice of respiratory therapy.

#### **Lists kept for affiliated and non-practising members**

**26** The Registrar must keep current records of persons who are entered in any category of affiliation under Section 19.

### **Professional Conduct**

#### **Preliminary investigation of complaint**

- 27** (1) On receiving or initiating a complaint, the Registrar must send copies of the complaint to both of the following:
- (a) the respondent;
  - (b) the Complaints Committee.
- (2) The Complaints Committee may appoint an investigator, who may or may not be a member of the Complaints Committee, to investigate a complaint.
- (3) When investigating a complaint, an investigator may do one or more of the following:
- (a) request additional written or oral explanation from the complainant, the respondent or a third party;
  - (b) request an interview of the complainant, the respondent or a third party;
  - (c) informally resolve the complaint in the interests of the respondent, the complainant, the public and the College.
- (4) An investigator may investigate any matter relating to the respondent that arises in the course of the investigation, in addition to the complaint, that may constitute any of the following:
- (a) professional misconduct;
  - (b) conduct unbecoming the profession;
  - (c) incompetence;
  - (d) incapacity.
- (5) A respondent may submit medical information and any information relevant to the complaint to an investigator.
- (6) When the investigation is finished, the investigator must prepare a report of the investigation and give a copy to the Complaints Committee and a copy to the



respondent.

### **Additional information to Complaints Committee**

- 28 (1)** The Complaints Committee may at any time direct an investigator to conduct any investigation that the Complaints Committee considers necessary.
- (2) The Complaints Committee may at any time before or during a meeting receive information in addition to the report of the investigation, if the information is relevant to the matters before it.
- (3) If the Complaints Committee receives additional information under subsection (2), the respondent must be given an opportunity to respond to the information.

### **Powers of Complaints Committee and disposition of complaint**

- 29 (1)** For purposes of this Section,
- (a) “caution” by the Complaints Committee means a determination that a member has breached the standards of professional ethics or practice expected of members in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence, or incapacity, and a caution is not considered to be a licensing sanction;
- (b) “counsel” by the Complaints Committee means a determination that a member could benefit from professional guidance from the College about the subject matter of the complaint in circumstances that do not constitute professional misconduct, conduct unbecoming the profession, incompetence or incapacity, and counsel is not considered to be a licensing sanction.
- (2) When a matter is referred to a Complaints Committee, it must do one of the following:
- (a) dismiss the complaint and, if considered useful by the Complaints Committee, provide guidance to the complainant, the respondent or any other person associated with the complaint, if the Complaints Committee determines that any of the following apply:
- (i) the subject matter of the complaint is outside the jurisdiction of the College,
- (ii) the complaint cannot be substantiated or is frivolous or vexatious,
- (iii) the complaint constitutes an abuse of process,
- (iv) the complaint does not allege facts that, if proven, would constitute professional misconduct, conduct unbecoming, incompetence or incapacity, or would merit a counsel, a caution or both;
- (b) give the complainant, the respondent, and any other person it considers appropriate a reasonable opportunity to appear before a Complaints Committee and to submit representations, explanations or documentation, including medical information and other information relevant to the complaint.

- (3) After the Complaints Committee has given the parties the opportunity to appear before the Committee under clause (2)(b), the Complaints Committee may require the respondent to do one or more of the following:
- (a) submit to physical or mental examinations by a qualified person or persons designated by the Complaints Committee, and authorize the reports from the examinations to be given to the Complaints Committee;
  - (b) submit to a review of the respondent's practice by a qualified person or persons designated by the Complaints Committee, and authorize a copy of the review to be given to the Complaints Committee;
  - (c) complete a competence assessment or other assessment or examination the Complaints Committee directs to determine whether the respondent is competent to practise respiratory therapy and authorize the assessment or examination report to be given to the Complaints Committee;
  - (d) produce any records or documents kept about the respondent's practice.
- (4) After the Complaints Committee has given the parties the opportunity to appear before the Committee under clause (2)(b), the Committee must do one or more of the following:
- (a) dismiss the complaint and, if the Complaints Committee considers it useful, provide guidance to the complainant, respondent, or any other person associated with the complaint;
  - (b) counsel the respondent;
  - (c) caution the respondent;
  - (d) with the respondent's consent, order that the respondent receive a reprimand and that the reprimand be communicated to the respondent, the complainant and any other person the Complaints Committee considers appropriate;
  - (e) if a determination is made that the matter or matters warrant a hearing, refer the matter or matters to the Professional Conduct Committee;
  - (f) informally resolve the complaint.
- (5) A reprimand issued in accordance with clause (4)(d) is a licensing sanction against the respondent and must be dealt with in the same manner as a finding made under Section 51 of the Act.

#### **Costs of respondent complying with requirement**

- 30** Expenses incurred for a respondent to comply with a requirement under subsection 29(3) must initially be paid by the College, but may be awarded as costs against the respondent under Section 48.

#### **Preparing and tendering settlement proposals**

- 31 (1)** A settlement proposal may be tendered in writing to the other party at any time before a hearing begins.
- (2)** A settlement proposal must include all of the following:
- (a)** an admission or admissions by the respondent to one or more of the allegations set out in the notice of hearing;
  - (b)** the respondent's consent to a specified disposition conditional on the acceptance of the settlement proposal by the Complaints Committee and the Professional Conduct Committee.
- (3)** If both parties agree with a settlement proposal tendered under subsection (1), the College must refer the settlement proposal to the Complaints Committee for consideration.
- (4)** The parties may agree to use a mediator to prepare a settlement proposal, and the costs for the mediator must be divided equally between the College and the respondent, unless the parties agree to a different division of the costs.

**Complaints Committee actions when settlement proposal referred**

- 32 (1)** The Complaints Committee may recommend acceptance of a settlement proposal if it is satisfied that all of the following are met:
- (a)** the public is protected;
  - (b)** the conduct or its causes can be, or have been successfully remedied or treated, and the respondent is likely to successfully pursue any remediation or treatment required; and
  - (c)** settlement is in the best interests of the public and the profession.
- (2)** If the Complaints Committee recommends acceptance of a settlement proposal, the Complaints Committee must refer the settlement proposal to the Professional Conduct Committee for consideration.
- (3)** If the Complaints Committee does not recommend acceptance of a settlement proposal, the Complaints Committee must do one of the following:
- (a)** recommend changes to the settlement proposal that,
    - (i)** if agreed upon by the parties, will result in acceptance by the Complaints Committee, or
    - (ii)** if not agreed upon by the parties, will result in rejection by the Complaints Committee;
  - (b)** reject the settlement proposal and refer the complaint considered by the Complaints Committee to the Professional Conduct Committee for hearing.

**Professional conduct committee actions when settlement proposal referred**

- 33 (1)** If the Professional Conduct Committee accepts a settlement proposal, the settlement proposal forms part of the order of the Professional Conduct Committee disposing of the matter and, except as provided in subsection 34(3) for a breach of the settlement proposal, there is no hearing.
- (2)** If the Professional Conduct Committee does not accept a settlement proposal, it must do one of the following:
- (a)** suggest amendments to the settlement proposal and return it to the parties for review;
  - (b)** reject the settlement proposal, in which case the matter is referred to another panel of the Professional Conduct Committee for a hearing.
- (3)** If both parties do not agree with any amendments to a settlement proposal made under clause (2)(a), the settlement proposal is deemed to be rejected and the matter must be referred to another panel of the Professional Conduct Committee for a hearing.
- (4)** If both parties agree with any amendments to a settlement proposal made under clause(2)(a), the settlement proposal must be sent back to the Complaints Committee who must do one of the following:
- (a)** accept the settlement proposal;
  - (b)** reject the settlement proposal and refer the matter to another panel of the Professional Conduct Committee for a hearing.
- (5)** A person who sits on a panel of the Professional Conduct Committee that reviews a rejected settlement proposal must not sit on a panel of a Professional Conduct Committee that conducts a hearing related to the same complaint.

#### **Settlement proposals and hearings**

- 34 (1)** If a settlement proposal is rejected by the Professional Conduct Committee, a hearing must proceed without reference to the settlement proposal or any admissions contained in the settlement proposal until after the Professional Conduct Committee has determined whether professional misconduct, conduct unbecoming a respiratory therapist, incompetence or incapacity has been proven.
- (2)** Before deciding whether to award costs in a hearing, the Professional Conduct Committee may be given a copy of any settlement proposals exchanged between the parties.
- (3)** Any alleged breach by a respondent of an undertaking given in an accepted settlement proposal or a condition of an accepted settlement proposal must be referred to a Professional Conduct Committee and may form the subject of a new hearing.
- (4)** A settlement proposal may include any disposition that could be ordered by the Professional Conduct Committee under the Act or these regulations.

**Consent for revocation**

- 35 (1)** A respondent who does not contest the allegations or admits to some or all of the allegations set out in a complaint or the notice of hearing may, with the consent of the College, ask the Professional Conduct Committee to revoke the respondent's licence.
- (2) The Professional Conduct Committee may consent to revoke a respondent's licence in accordance with subsection (1) with or without conditions, or may refuse consent.
- (3) Notification of a revocation under this Section must be given in accordance with Section 47.

**Notice of hearing**

- 36 (1)** A notice of hearing must be served at the respondent's or the complainant's last known address by one of the following methods:
- (a) personal service;
- (b) substituted service;
- (c) registered mail.
- (2) A notice of hearing sent by mail is deemed to have been served on the date it was posted.
- (3) The notice of hearing must state the details of the charges and state that the respondent may be represented by legal counsel, a union representative or another representative.

**Amendment of notice of hearing**

- 37 (1)** At any time before or during a hearing, the Professional Conduct Committee may, on its own motion or on the motion of a party to the hearing, amend or alter the notice of hearing for any of the following reasons:
- (a) to correct an alleged defect in substance or form,
- (b) to make the notice conform to the evidence, if there appears to be a difference between the evidence and the notice or if the evidence discloses any of the following that is not stated in the notice:
- (i) potential professional misconduct,
- (ii) conduct unbecoming the profession,
- (iii) incapacity or incompetence.
- (2) A respondent must be given an opportunity to prepare an answer to an amendment or alteration to a notice of hearing made by the Professional Conduct Committee.
- (3) After receiving a respondent's answer under subsection (2), the Professional Conduct Committee may decide that an amendment or alteration to the notice of hearing

should not be made and, if considered appropriate, may refer any new allegations to the Registrar for processing in accordance with Section 27.

### **Public notice of hearing**

**38** The College must give public notice of any scheduled hearings, through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of a hearing;
- (b) reference to any application being made for an order under subsection 39(2).

### **Attendance at hearing**

**39 (1)** Except as provided in subsection (2) or (3), a hearing is open to the public.

(2) At the request of a party, the Professional Conduct Committee may order that the public, in whole or in part, be excluded from a hearing or any part of it if the Professional Conduct Committee is satisfied that any of the following apply:

- (a) personal, medical, financial or other matters that may be disclosed at the hearing are of such a nature that avoiding public disclosure of those matters in the interest of the public or any person affected outweighs adhering to the principle that hearings should be open to the public;

(b) the safety of any person may be jeopardized by permitting public attendance.

(3) The Professional Conduct Committee may make an order that the public be excluded from a part of a hearing that deals with a request for an order to exclude the public in whole or in part under subsection (2).

(4) The Professional Conduct Committee may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a hearing or in any part of a hearing dealing with an order under subsection (2) or (3).

(5) Subject to any order made under this Section, the Professional Conduct Committee must state at a hearing its reasons for any order made under this Section.

### **Hearing procedures**

**40 (1)** A complainant cannot participate as a party at a hearing.

(2) The Professional Conduct Committee may determine any additional rules of procedure for hearings that are not covered by the Act or these regulations.

(3) Witnesses at a hearing must testify under oath or affirmation.

(4) An oath or affirmation taken at a hearing may be administered by any member of the Professional Conduct Committee or other person in attendance authorized by law to administer oaths or affirmations.

(5) The Professional Conduct Committee may require a respondent to do one or more of the following during a hearing:

- (a) submit to physical or mental examinations by a qualified person or persons designated by the Professional Conduct Committee and authorize examination reports to be given to the Professional Conduct Committee;
  - (b) submit to a review of the respondent's practice by a qualified person or persons designated by the Professional Conduct Committee and authorize a copy of the review to be given to the Professional Conduct Committee;
  - (c) submit to a competence assessment or other assessment or examination the Professional Conduct Committee directs to determine whether the respondent is competent to practise respiratory therapy and authorize the assessment report or examination to be given to the Professional Conduct Committee;
  - (d) produce any records kept about the respondent's practice that the Professional Conduct Committee considers appropriate.
- (6) If a respondent fails to comply with a requirement under subsection (5), the Professional Conduct Committee may order that the respondent be suspended until the respondent complies.
- (7) The expenses incurred for a respondent to comply with a requirement under subsection (5) must be initially paid by the College, but may be awarded as costs against a respondent under Section 48.

**Respondent fails to attend hearing**

**41** After receiving proof of service of the notice of hearing in accordance with Section 47 of the Act, the Professional Conduct Committee may proceed with a hearing in a respondent's absence and take any action authorized under the Act and these regulations without further notice to the respondent.

**Subpoenaed witness fees**

**42** Witnesses who are present under subpoena at a hearing are entitled to the same allowances as witnesses attending a trial of an action in the Supreme Court of Nova Scotia.

**Recording evidence at hearing**

**43 (1)** All evidence presented at a hearing must be recorded by a person authorized by the College.

- (2) Evidence may be presented at a hearing in any manner that the Professional Conduct Committee considers appropriate, and the committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

**Preserving evidence**

**44** Evidence obtained by the Professional Conduct Committee and information obtained by the Complaints Committee or an investigator for a complaint that has not been dismissed by the Complaints Committee must be preserved at least 5 years from the date the evidence is presented or the information is obtained.

**Disposition by Professional Conduct Committee**

**45** If the Professional Conduct Committee finds professional misconduct, conduct

unbecoming a respiratory therapist, incompetence or incapacity on the part of a respondent, the Professional Conduct Committee may do one or more of the following and must include orders for it in the Committee's disposition of the matter:

- (a) revoke the respondent's registration or licence and remove the respondent's name from the appropriate rosters;
- (b) for a respondent who held a temporary licence or a temporary licence with conditions or restrictions at the time of the incident giving rise to the complaint, revoke the respondent's ability to obtain registration, or require the respondent to comply with any conditions or restrictions imposed by the Committee if registration is granted;
- (c) authorize the respondent to resign from the Register and remove the respondent's name from the rosters where the name is entered;
- (d) suspend the respondent's licence for a specified period of time and remove the respondent's name from the rosters where the name is entered;
- (e) suspend the respondent's ability to obtain a licence for a specified period of time;
- (f) suspend the respondent's licence pending the satisfaction and completion of any conditions the Professional Conduct Committee orders;
- (g) impose any restrictions or conditions or both on the respondent's licence for a specified period of time;
- (h) reprimand the respondent and direct that the reprimand be recorded in the records of the College;
- (i) direct the respondent to pass a particular course of study or satisfy the Professional Conduct Committee or any other committee established under the Act of the respondent's general competence to practise respiratory therapy or competence in a particular field of practice;
- (j) for findings that involve practising respiratory therapy while not holding a valid licence to practise, direct the respondent to pay a fine in an amount determined by the Professional Conduct Committee;
- (k) publish or disclose its findings in accordance with the Act and these regulations.

#### **Written decision of Professional Conduct Committee**

**46** The Professional Conduct Committee must prepare a written report of its decision that includes the reasons for the decision, and must provide copies of its decision or information from its decision in accordance with Section 47.

#### **Disclosing and publishing decisions**

**47 (1)** Except as prohibited by any publication bans, the Professional Conduct Committee may disclose or publish a decision or part of a decision that dismisses a complaint, in the manner determined by the Professional Conduct Committee.



- (2) Except as prohibited by any publication bans, the Registrar must do all of the following for any licensing sanction that is issued other than through a hearing:
- (a) make the appropriate entries in the Register and the rosters of the College and, if applicable, on the licence of the member;
  - (b) publish a summary of the decision in all of the following:
    - (i) the College website;
    - (ii) the professional conduct digest retained by the College and available to the public;
    - (iii) any official publication determined by the Professional Conduct Committee;
  - (c) notify registering bodies in other Canadian respiratory therapy jurisdictions and in the original jurisdiction and other known jurisdictions where the member has practised of the licensing sanction ordered, and include any other information requested by the other licensing jurisdictions;
  - (d) give the respondent a copy of the decision;
  - (e) give some or all of the decision as permitted by the Professional Conduct Committee to the complainant;
  - (f) give a summary of the decision, parts of the decision or notice of the decision to any other persons the committee making the decision directs.
- (3) Subject to subsection (4), the summary of a decision required by subsection (2) must be prepared by the College and must contain all of the following information:
- (a) the member's name, city or town of residence, registration number;
  - (b) the provision of the Act or the regulations under which the licensing sanction is issued;
  - (c) the date of the decision;
  - (d) the allegations that were upheld by the Professional Conduct Committee or the Complaints Committee or, for a consent revocation, the allegations that were either admitted by or not contested by the respondent;
  - (e) whether the allegations amounted to professional misconduct, conduct unbecoming, incompetence, or incapacity;
  - (f) the disposition ordered by the Complaints Committee or the Professional Conduct Committee;
  - (g) the reasons for the decision;

- (h) any information the College considers necessary to meet the objects of the College.
- (4) If a complaint is resolved without a hearing and the allegations have been found to constitute incapacity, the specific nature of the incapacity must not be included in the summary of the decision under subsection (3).
- (5) Except as prohibited by any publication bans, the Registrar must do all of the following for any licensing sanction that is issued following resolution of a complaint through a hearing:
  - (a) make the appropriate entries in the Register and the rosters of the College and, if applicable, on the licence of the member;
  - (b) publish a summary of the decision on the College website and in any official publication determined by the Professional Conduct Committee;
  - (c) notify registering bodies in other Canadian respiratory therapy jurisdictions and in the original jurisdiction and other known jurisdictions where the member has practised of the licensing sanction ordered, and include any other information requested by the other licensing jurisdictions;
  - (d) give a copy of the decision to the respondent;
  - (e) give some or all of the decision to the complainant, as permitted by the Professional Conduct Committee;
  - (f) give some or all of the decision to the relevant employer or employers as permitted by the Professional Conduct Committee;
  - (g) publish a copy of the full decision in the professional conduct digest of the College and make the professional conduct digest available to the public;
  - (h) give copies of the decision, a summary of the decision, parts of the decision or notice of the decision to the public or any other persons, as the Professional Conduct Committee considers necessary.

#### **Costs awarded after hearing**

**48 (1)** For purposes of this Section, “costs” includes all of the following:

- (a) expenses incurred by the College in the investigation of a complaint;
- (b) expenses incurred by the College for the activities of the Complaints Committee and the Professional Conduct Committee;
- (c) expenses incurred under ~~subsections 30(1) or~~ [Section 30 or subsection] 40(7);
- (d) the College’s solicitor and client costs, including disbursements and HST, relating to the investigation and hearing of a complaint, including those of College counsel and counsel for the Professional Conduct Committee;

- (e) fees for retaining a court reporter and preparing transcripts of the proceedings;
  - (f) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a hearing.
- (2) Except when awarded costs under this Section, a respondent is responsible for all expenses incurred in their defence.
- (3) If the Professional Conduct Committee finds professional misconduct, conduct unbecoming the profession, incompetence or incapacity on the part of the respondent, it may order that the respondent pay costs in whole or in part.
- (4) If the Professional Conduct Committee considers that a hearing was not necessary, it may order the College to pay some or all of the respondent's legal costs.
- (5) The Registrar may suspend the licence of any respondent who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

#### **Applications for re-instatement**

- 49 (1) An application for re-instatement of registration or a licence must be sent in writing to the Registrar together with the applicable application fee.
- (2) An application must include any information the Re-instatement Committee requires to assist it in determining whether the objects of the professional conduct process will be met if re-instatement is granted.

#### **Investigation concerning re-instatement application**

- 50 (1) On receiving a re-instatement application, the Registrar may request that an investigation be conducted to gather relevant and appropriate information concerning the application.
- (2) A person who conducts an investigation must give a written report to the Re-instatement Committee and the applicant that contains all material relevant to the application, including the decision of the Professional Conduct Committee that revoked the applicant's registration or licence, and any relevant information gathered during the investigation.
- (3) The Re-instatement Committee must set a date for a re-instatement application and must advise the applicant of the date.
- (4) The parties to a re-instatement application are the College and the applicant for re-instatement.
- (5) Evidence before the Re-instatement Committee must be taken under oath or affirmation and must be recorded, and is subject to cross-examination

#### **Attendance at re-instatement application**

- 51 (1) Except as provided in subsection (2) or (3), a re-instatement application is open to the public.

- (2) At the request of a party, the Re-instatement Committee may order that the public, in whole or in part, be excluded from a re-instatement application or any part of it if the Re-instatement Committee is satisfied that any of the following apply:
  - (a) personal, medical, financial or other matters that may be disclosed at the application for re-instatement are of such a nature that avoiding public disclosure of those matters in the interest of the public or any person affected outweighs adhering to the principle that applications for re-instatement should be open to the public;
  - (b) the safety of any person may be jeopardized by permitting public attendance.
- (3) The Re-instatement Committee may make an order that the public be excluded from a part of a re-instatement application that deals with a request for an order to exclude the public in whole or in part under subsection (2).
- (4) The Re-instatement Committee may make any orders that it considers necessary, including orders prohibiting publication or broadcasting, to prevent the public disclosure of matters disclosed in a re-instatement application or in any part of a re-instatement application dealing with an order under subsection (2) or (3).
- (5) Subject to any order made under this Section, the Re-instatement Committee must state at a re-instatement application its reasons for any order made under this Section.

#### **Public notice of application for re-instatement**

**52** The College must give public notice of any scheduled applications for re-instatement through its website or any alternate means the College considers appropriate, including notice of all of the following:

- (a) the date, time and location of a re-instatement application;
- (b) reference to any application being made for an order under subsection 51(2).

#### **Decision of Re-instatement Committee**

- 53** (1) After considering the evidence and the representations from an applicant and the College representative, the Re-instatement Committee must decide to accept or reject the applicant's re-instatement application and communicate its decision, together with reasons, in writing to the applicant and to the Registrar.
- (2) If the Re-instatement Committee accepts a re-instatement application, the Committee may impose any terms and conditions it considers appropriate relating to the re-instatement of the applicant, and the applicant must satisfy all criteria required for a licence.
  - (3) Except as provided in subsection (4), a decision of the Re-instatement Committee concerning a re-instatement application is final.
  - (4) An applicant may resubmit a re-instatement application after 1 year has passed since the date of the Re-instatement Committee's initial decision to reject their application,


or after a longer period determined by the Re-instatement Committee that rejected the initial application.


### **Costs of re-instatement application**


**54 (1)** For purposes of this Section, “costs” includes all of the following:

- (a) expenses incurred by the College in the investigation of a re-instatement application;
  - (b) expenses incurred by the College for the activities of the Re-instatement Committee;
  - (c) the College’s solicitor and client costs, including disbursements and HST, relating to a re-instatement application, including those of College counsel and counsel for the Re-instatement Committee;
  - (d) fees for retaining a court reporter and preparing transcripts of the proceedings;
  - (e) travel costs and reasonable expenses of any witnesses, including expert witnesses, required to appear at a re-instatement application.
- (2) An applicant for re-instatement is responsible for all expenses incurred in the re-instatement application.
- (3) Whether the application is accepted or rejected, the Re-instatement Committee may recover costs from the applicant.
- (4) The Registrar may suspend the licence of any person whose licence is being re-instated and who fails to pay the costs within the time ordered until payment is made or satisfactory arrangements for payment are made.

---

 [Back to list of regulations by Act](#)

[Read about consolidations](#) 

 [Back to list of Acts by department](#)

---

This page and all contents are copyright © 2008, [Province of Nova Scotia](#), all rights reserved.

Please send comments to: [regofregs@gov.ns.ca](mailto:regofregs@gov.ns.ca)

Last updated: 08-01-2008