

**Terms of Reference
Alberta College of Pharmacy
Interim Condition and Suspension Committee**

Type of Committee: Statutory

Purpose:

To impartially consider under:

1. Section 65 of the *Health Professions Act*, whether the Complaint Director's recommendation to impose conditions on, or suspend, an investigated person's practice permit¹ and/or pharmacy license², is fair and a reasonably necessary measure to protect the public until the completion of professional conduct proceedings under Part 4 of the *Health Professions Act* (HPA).
2. Sections 41, 81.1, 86, 87 of the *Health Professions Act*, a registrant's Application for Stay pending the outcome of an appeal to Council of:
 - a Hearing Tribunal's decision and/or orders³, or
 - a decision of the Registrar to suspend, apply conditions to, or refuse a practice permit⁴.

Any individual(s) appointed to consider a matter referred under these sections is limited to considering the merits of the need to temporarily suspend, or apply conditions to, a registrant's annual permit pending a decision by another body; or, whether to stay a decision pending an appeal to another body. It is not their role to adjudicate cases for the purpose of determining merit or prescribing sanctions for any reason.

Membership:

The Interim Condition and Suspension Committee Pool includes a pharmacist and a pharmacy technician to consider applications under sections 41, 65, 81.1, 86 and 87 of the *Health Professions Act*. Council will appoint individuals to the pool who have had previous training and multiple experiences with ACP in the quasi-judicial processes established under Part 4 or other relevant sections of the *Health Professions Act* and *Pharmacy and Drug Act*.

The term of appointment to the pool is 3 years; after which a regulated member may be reappointed for a second three-year term.

¹ pursuant to *Health Professions Act* (HPA) s. 65

² pursuant *Pharmacy and Drug Act* (PDA) s. 23.1

³ pursuant to HPA s. 81.1, and 86-87

⁴ pursuant to HPA s. 41

Appointments to Consider Individual Applications

Upon the Hearings Director receiving an application under section 41, 65, 81.1, 86 or 87 of the *Health Professions Act*, they will:

- Select one (1) regulated member from the pool; and,
- Request the President, in consultation with the Registrar, to appoint one (1) public member of council.

to consider the application.

Required training:

Members of this committee pool are provided training to understand the scope, limitations, and procedures to be undertaken in any case assigned.

Reimbursement:

Committee members will be reimbursed in accordance with the policies of council.

Resource: Hearings Director

Original TOR: June 2024

APPENDIX

Health Professions Act RSA 2000 Chapter H-7

Review by council

- 41(1)** An applicant whose practice permit is issued subject to conditions, suspended or refused by the registrar, registration committee or competence committee may, within 30 days after being given a copy of the decision, request a review by giving the registrar a written request for a review that sets out the reasons why the application should be approved with or without conditions.
- (2) On being give a request for review, the registrar must within 30 days, notify the applicant of the date, time and place at which the council will conduct the review.
- (3) A review must be commenced not later than 60 days after the registrar is given the request for a review.
- (4) **A regulated member whose practice permit is suspended under this section may apply to the registrar for a stay of the suspension until the council makes a decision under subsection (6), and the person or committee designated by the council must consider and make a decision on the application.**
- (5) The applicant and the registrar, registration committee or competence committee may appear with or without counsel and make representations to the council at the review.
- (6) On completing a review, the council may
- (a) confirm, reverse or vary the decision of the registrar, registration committee or competence committee and make any decision that the registrar, registration committee or competence committee could have made, or
 - (b) refer the matter back to the registrar, registration committee or competence committee and direct the registrar, registration committee or competence committee to make a further assessment of the application for a practice permit and make a decision under section 40(2) on the application,
- and may make any further order the council considers necessary for the purposes of carrying out its decision.
- (7) The council must give the applicant and the registrar a written copy of its decision under subsection (6) with the reasons for the decision.
- (8) The college may, in accordance with the bylaws, charge a fee for a review

1999 cH-5.5 s41

Conditions, suspension during proceedings

- 65(1)** On the recommendation of the complaints director or the hearing tribunal, a person or committee designated by the council may at any time after a complaint is made until a hearing tribunal makes an order under section 82.

- (a) impose conditions on an investigated person's practice permit generally or with respect to any area of the practice of that regulated profession, including the condition that the investigated person;
 - (i) practise under supervision, or
 - (ii) practise with one or more other regulated members, or
 - (b) suspend the practice permit of an investigated person, until the completion of proceedings under this Part.
- (2) An investigated person may apply to the Court of King's Bench for an order staying a decision by a person or committee under subsection (1).
- (3) A copy of an application under subsection (2) must be given to the registrar.

RSA 2000 cH-7 s65;2009 c53 s79;2018 c15 s12;
AR 217/2022

Tribunal decision re sexual abuse or sexual misconduct

81.1(1) If the subject-matter of a hearing relates to a complaint alleging sexual abuse, and the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct based in whole or in part on sexual abuse, the hearing tribunal must immediately order the suspension of the investigated person's practice permit until an order is made under section 82. 2018 c15 s14

Stay pending appeal

- 86(1)** A decision of the hearing tribunal remains in effect pending an appeal to the council unless the person or committee designated by the council, on written application, stays the decision pending the appeal.
- (2) The investigated person may make a written submission with respect to an application under subsection (1).
 - (3) If the person or committee designated by the council
 - (a) decides not to stay the decision of the hearing tribunal, or
 - (b) does not make a decision within 10 days, excluding holidays, of the application, the applicant may apply to the Court of King's Bench for a stay of the decision of the hearing tribunal pending an appeal to the council.
 - (4) A decision of the council remains in effect pending an appeal to the Court of Appeal unless the Court of Appeal, on application, stays the decision pending the appeal.

RSA 2000 cH-7 s86;AR 217/2022

Appeal to council

- 87(1)** An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that
- (a) identifies the appealed decision, and
 - (b) states the reasons for the appeal.
- (2) A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.
 - (3) A hearings director must, on being given a notice of appeal,

- (a) give a copy of the notice of appeal, and make a copy of the decision and record of the hearing available, to each member of the council or of the panel of council hearing the appeal,
- (b) ensure that the complaints director, the investigated person and the complainant are given a notice of the hearing of an appeal that states the date, time and place at which the council will hear the appeal, and
- (c) ensure that the investigated person and the complaints director are given a copy of the record of the hearing. 1999 cH-5.5 s87

Bias prevention

71 Any person who has investigated, reviewed or made a decision on a complaint or matters related to a complaint may not subsequently sit as a member of a council, tribunal or committee while it is holding a hearing or a review with respect to that complaint. 1999 cH-5.5 s71

Pharmacy and Drug Act - Conditions, suspension during proceedings

23.1(1) If a complaint has been made under section 23 or 24, a person or committee designated by the council may, on the recommendation of the complaints director or the hearing tribunal, in accordance with the regulations,

- (a) impose conditions on the licence, or
- (b) suspend the licence, until the completion of proceedings under this Part.

(2) A licensee or proprietor may apply to the Court of King's Bench for an order staying a decision by a person or committee under subsection (1).

(3) A copy of an application under subsection (2) must be served on the registrar.

2005 c30 s19;2009 c53 s131;AR 217/2022

Interpretations Act - Computation of Time

22(7) If an enactment provides that anything is to be done within a time after, from, of or before a specified day, the time does not include that day. RSA 1980 cI-7 s22

28 (1)(x) "holiday" includes:

- (i) every Sunday,
- (ii) New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Remembrance Day and Christmas Day
- (iii) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,
- (iv) December 26, or when that date falls on a Sunday or a Monday, then December 27,
- (v) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of mourning, and

- (vi) with reference to any particular part of Alberta, the day in each year that may by proclamation of the Lieutenant Governor in Council be appointed as a public holiday for that part. RSA 2000 cI-8 s28; AR 75/2023