



Health Professions Review Board

Recommendation and Guideline No. 1 – s. 50.53(1)(d)

RE: Ensuring that the right to a review of a registration decision is respected and communicated to individuals applying for registration with a college.

Purpose

This is the first recommendation and guideline document issued by the Health Professions Review Board (Review Board) under s. 50.53(1)(d) of the *Health Professions Act*, R.S.B.C. 1996, c. 183 (“the Act”):

50.53 (1) The review board has the following powers and duties:

(d) to develop and publish guidelines and recommendations for the purpose of assisting colleges to establish and employ registration, inquiry and discipline procedures that are transparent, objective, impartial and fair.

This guideline is about registration procedures. It recommends against the practice of refusing to allow an applicant to make a registration application until certain requirements or pre conditions are first met.

Background

The Review Board was created effective December 9, 2008, with an operational mandate to hear reviews from college decisions that first came into effect on March 16, 2009 or on such later date that a college is designated under the *Act*.

The Review Board’s mandate to develop and publish guidelines and recommendations under s. 50.53(1)(d) ensures that the Review Board’s knowledge and experience in addressing registration reviews, timeliness reviews and complainant reviews under s. 50.53(1)(a), (b) and (c) can be used constructively and proactively to assist the colleges in developing transparent, objective, impartial and fair procedures in the public interest.

Registration decisions

Under section 20(1) of the *Act*, “the registration committee is responsible for granting registration, including reinstatement of registration, of a person as a member of its college”. Section 20(2) states that the registration committee must grant registration as a member of its college to every person who, in accordance with the bylaws (a) applies to the college for registration, (b) satisfies the registration committee that he or she meets the conditions or requirements for registration in a class of registrants, and (c) pays the required fees, if any.

Under section 50.53(1)(a) of the *Act*, the Review Board has the power and duty “on application under section 50.54(2), to review a registration decision”. Section 50.54(2) states that “an applicant may apply to the review board for a review of a registration decision”.

“Registration decision” is defined in s. 50.5 as follows:

“**registration decision**” means a decision made by a registration committee

- (a) to refuse to grant an application for registration as a member of a college under section 20, except for a refusal under section 20(2.1) or (3),
- (b) to grant registration in a class of registrants under section 20 with limits or conditions on the practice of the designated health profession by the registrant, except limits or conditions imposed under section 20(2.1) or (3), or
- (c) if a college has established one or more classes of certified non-registrants, to refuse an application for certification as a certified non-registrant.

“**Applicant**” is defined in s. 50.54(1) for the purposes of having the right to seek a review by the Review Board as follows:

- (a) a person applying for registration as a member of a college who is refused a grant of registration under section 20, except for a refusal under section 20(2.1) or (3),
- (b) a registrant who is granted registration in a class of registrants under section 20(2) with limits or conditions on the practice of the designated health profession by the registrant, except limits or conditions imposed under section 20(2.1) or (3), or
- (c) a person applying for certification as a certified non-registrant who is refused certification.

Section 20(7) requires that if the registration committee decides to refuse a person’s application for registration or to grant a person registration for a limited period or with limits or conditions imposed on the practice of the designated health profession by the person, the registration committee must, within 30 days of making its decision, deliver written notice to the person respecting the decision and advising of the person’s right to apply for a review of the decision to the Review Board.

Discussion

The only statutory requirements that must be met by a person seeking a review of a registration decision before the Review Board are that the person has applied to the college for registration and that the applicable registration committee either refused the requested registration, or granted registration with limits and conditions on the practice of the designated health profession by the registrant.

Colleges have the right to pass bylaws establishing the conditions or requirements for registration: *Act*, s. 19(1)(m). However, there is a clearly expressed legislative intent that every applicant whose registration application is refused, or granted with conditions, has a right to apply to the independent Review Board for a review of that registration decision.¹ That right does not depend on the ground on which the application is refused, or the lack of merit in the application. A refusal is a refusal², which entitles an applicant to be advised of his

¹ The only exception is for refusals under s. 20(2.1) or (3), where there is a right of appeal to court.

² To refuse means to the deny or reject something offered or demanded: Black’s Law Dictionary (7th ed, 1999); “refuse” means simply to “withhold acceptance of” or “not grant”: Oxford Pocket Dictionary (8th ed, 1992).

or her right to request a review. Thus, while college registry staff are entitled to educate applicants on the application process, the right to request a review is frustrated if a college's procedures at the front end prevent an application from even being made because certain preconditions have not yet been met, as described further below.

Recommendation

In accordance with the spirit and intent of the *Act*, the Review Board recommends that there be no conditions precedent imposed by a college either before delivering or making available to a person an application form for registration prescribed by a college's bylaws or policies, or before an application is heard and considered by the registration committee for decision.

Any individual seeking registration with any of the designated colleges covered by the *Act* should be provided with the applicable registration form for that college upon request, along with instructions for the proper submission of the application and supporting documentation. Further, such application forms and instructions should be easily accessible to the public via the college's website. Finally, there should be no conditions precedent to be fulfilled before an application form is delivered to someone intending to apply, or before it can be accessed by an individual, or before the applicable registration committee of the college considers the application once it has been submitted to the college. The Review Board will infer that a failure to permit a person to apply is a decision by the registration committee or at its direction.

This will ensure that any person who intends to apply to the college for registration can do so and that if, upon doing so, registration is not granted, for among other reasons, because it is determined:

- the applicant is not yet eligible for registration,
- the applicant does not currently meet the criteria,
- the documentation in the application is incomplete,
- the applicant has not yet met all the registration requirements,
- a particular required examination was not passed, or
- additional training, coursework, examinations or other requirements need to be met first before registration will be granted,

that determination should be made by the registration committee, and communicated to the applicant. The Review Board will infer in the situations bulleted above and other similar situations that the rejection was made by the registration committee or at its direction.

The above guidelines will then ensure a right to a review before the Review Board, as intended by the legislature, by individuals who are dissatisfied with the decision of the registration committee regarding their application for registration. Such right of review should also be communicated to the applicant at the same time the registration decision is communicated.

Health Professions Review Board

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