



British Columbia Health Professions Review Board

Rules of Practice and Procedure for Reviews under the Health Professions Act, RSBC 1996, c. 183

These rules for reviews to the Health Professions Review Board are made under section 11 of the *Administrative Tribunals Act*, SBC 2004, c. 45. They must be read together with:

1. the *Health Professions Act*, RSBC 1996, c. 183;
2. sections 1 to 21, 26- 33, 34(3), 34(4) 35-42, 44, 46.2, 47-58, 60 and 61 of the *Administrative Tribunals Act*; and
3. Practice Directives issued by the review board under sections 12 and 13 of the *Administrative Tribunals Act*.

These rules were approved by the Health Professions Review Board on October 27, 2009 and are effective November 1, 2009.

These rules are current as of June 2024.

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PART I INTRODUCTION

Rule 1 Guiding principles

- (1) The purpose of these rules is to make it as easy as possible to resolve matters brought to the review board for resolution.
- (2) These rules:
 - a) facilitate the fair and just resolution of matters before the review board;
 - b) ensure the conduct of a proceeding is proportional to the complexity of the matter before the review board;
 - c) allow flexibility in the conduct of a review, when fair and just to do so; and
 - d) facilitate the timely resolution of matters.

Rule 2 Powers of the review board

- (1) The powers of the review board include:
 - a) accepting or rejecting an application for review;
 - b) using mediation to resolve the matter;
 - c) directing that pre-hearing conferences be held; and
 - d) directing that a matter be resolved by written submissions or oral hearing, or a combination of both.

Rule 3 Definitions

- (1) In these rules:

"Act" means the *Health Professions Act*, RSBC 1996 c. 183 and amendments, and includes all regulations made under the Act;

"agent" means a person who is authorized by a party to act for or in place of the party;

"address for delivery" means a current postal address for purposes of delivery of any notices in respect of the review, and must include an email address unless the review board permits otherwise;

"application" means an application for review to the review board made under s.50.53(1) (a), (b) or (c) of the Act;

"ATA" means the *Administrative Tribunals Act*, S.B.C. 2004, c. 45 and amendments, including all regulations made under that Act;

"chair" means the Tribunal Chair of the Health Professions Review Board;

"college" means a college of a health profession or group of health professions established or continued under the Act;

"document" includes a book, book of account, correspondence, map, drawing, chart, letter, paper, photograph, film, recording of sound, memoranda, x-ray and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means;

"executive director" means the Executive Director of the Health Professions Review Board and includes any case manager the executive director assigns to provide administrative support to the review board or to a panel of the review board;

"facilitated settlement process" means any process set out in these rules, including mediation, whether undertaken voluntarily or required by the tribunal under these rules, the purpose of which, apart from the hearing or prehearing conference process, is to resolve the dispute or narrow the issues needing to be addressed in a formal hearing;

"hearing" means a hearing whether oral or written, as follows:

- a) "oral hearing" means a hearing involving the parties or their representatives attending in person before a panel, whether in person, by telephone or videoconference;
- b) "written hearing" means a hearing held by means of exchange of documents and submissions.

"intervener" means a person that the review board allows to participate in a review under s.33 of the ATA;

"investigation file" means all records, documents, emails and things in the custody or control of the college that are relevant to the subject matter of a review, whether or not they have previously been collected and organized into a single "file" and whether or not they have been placed before the inquiry committee;

"mediation" means a confidential and without prejudice assisted negotiation or discussion process between some or all of the parties to a review, assisted or mediated by a mediator, the purpose of which is to provide the parties an opportunity to resolve or narrow the dispute without the need for a formal hearing;

"mediator" means a neutral and impartial facilitator, with no decision-making power, who assists parties in negotiating a mutually acceptable settlement of issues in dispute between them;

"member" means a member of the review board, the member designated as chair or his delegate, or a panel of members;

"panel" means one or more members of the review board appointed by the chair to conduct a hearing under the Act;

"participant" means a party or intervener;

"party" means:

- a) for a review of a registration or certification decision under s.50.54 of the Act, the applicant and the college;
- b) for a review of an inquiry committee disposition under s.50.6 of the Act, the complainant, the college and the registrant who is the subject of the complaint;
- c) for a review of the timeliness of an inquiry committee investigation under s.50.57 of the Act, the inquiry committee, the registrant and the complainant.

"registrant" means a person who is granted registration as a member of a designated health professions college in accordance with s.20 of the Act;

"registration file" means all records, documents, emails and things in the custody or control of the college that are relevant to the subject matter of a review, whether or not they have previously been collected and organized into a single "file" and whether or not they have been placed before the registration committee;

"review" means the proceedings before the review board, including a hearing;

"resolution discussions" means a meeting or discussions, which may be in person, by telephone, internet connection, or in writing, as part of a mediation process;

"review board" means the Health Professions Review Board established under s.50.51 of the Act;

"stage 1 Hearing" means a hearing where the review board considers whether the application for review may be fairly, properly and finally adjudicated based only on the application for review, the college record, and submissions or evidence, if any, from the applicant or complainant (See rule 44)

"stage 2 Hearing" means a hearing where an adjudication is based on the application for review, the college record, and submissions or evidence, if any, from the applicant or complainant, the college and, where applicable, the registrant (See rule 44).

PART II STARTING THE REVIEW

Rule 4 Information required in an application

- (1) An application must:
 - a) be in writing;
 - b) attach the decision or disposition for which a review is being requested, in a format acceptable to the review board and specified on its website;
 - c) state the relief being sought, and in the case of a decision or disposition, why the decision or disposition should be changed;
 - d) contain the name, address and telephone number of the person applying for review, and if that person has an agent acting on their behalf in respect of the review, the name of the agent and the telephone number at which the agent may be reached during regular business hours;
 - e) include an address for the purpose of delivery of any notices in respect of the review by the review board or another party;
 - f) if made more than 30 days after receiving notification of the decision or disposition to be reviewed, contain a request to extend the time limit under Rule 5(2); and
 - g) be signed by the applicant or the applicant's agent.¹
- (2) An application for review to the review board may be made by writing to the review board and including the information set out in Rule 4(1) or by using the application forms (Forms 1, 2 and 3) provided in the Appendix to these rules.

¹ Act, s.50.61.

- (3) For an inquiry committee disposition matter involving a complaint against more than one registrant, a separate application must be made in regard to each individual registrant who is the subject of a complaint.
- (4) The review board may join or combine one or more applications in accordance with Rule 35.

Rule 5 Time limit for application

- (1) An application for review must be received by the review board within 30 days of the day on which written notice of the registration decision, the inquiry committee disposition or the notice of delayed investigation to be reviewed was delivered to the applicant.²
- (2) An applying party may apply to the review board to extend the time for making an application, even if the time limit has already expired.
- (3) An applying party must satisfy the review board that “special circumstances” justify granting an extension of time. An applying party must deliver a written request to the review board, with any supporting documentation, that addresses the following:
 - a) Did the applying party form a genuine intention to apply for review and communicate that to any respondent before the expiry of the 30-day limitation period?
 - b) What was the length of the delay and was there a legitimate explanation for the delay?
 - c) Is the application bound to fail? Specifically, what are the applying party’s reasons for challenging the registration decision, the inquiry committee disposition, or the delayed investigation and do those reasons have sufficient merit to justify granting an extension of time?
- (4) Before deciding whether to grant an extension of time, the review board may give the other parties an opportunity to respond, which response may include reference to any special prejudice that party would experience if an extension was granted.

² Act, s.50.54(3) [registration reviews], s.50.57(1) [delayed investigation reviews]; s.50.6(2) [complaint disposition reviews].

- (5) If the review board is satisfied that special circumstances warrant an extension of the time limit to make an application for review, it may grant an extension of time whether or not the time limit has already expired.³

Rule 6 Delivery of application

- (1) An application for review must be delivered to the review board as described in Rule 24.
- (2) An application for review must be delivered to the other parties to the review set out in ss.50.54(4), 50.57(2) and 50.6(3) of the Act.⁴ Parties may be asked to provide proof of delivery to the other parties.
- (3) Subject to s.22(2) of the Act, if requested, a college will supply the complainant with the business contact information of a registrant recorded in the public register maintained under s.21(2)(a) of the Act.
- (4) An application for review may be delivered to a registrant under Rule 6(2) by delivering a copy to the registrant's address as listed in the public record maintained by the college as required by s.21(2)(a) of the Act.
- (5) Delivery of the application may be proved by:
 - a) an acceptance or admission of service written by the person the application was delivered to or their agent; or
 - b) a statement that the applying party delivered the application to all other parties required by this rule.

PART III REVIEW OF APPLICATION

Rule 7 Preliminary review of application

- (1) The review board will review an application to ensure:
 - a) the application is complete;

³ Act, s.50.61(4).

⁴ Act, s.50.54(4) [registration reviews]; s.50.57(2) [delayed investigation reviews]; s.50.6(3) [complaint disposition reviews]

- b) the matter is filed within the applicable time limit; and
- c) the matter for review is within the jurisdiction of the review board.

Rule 8 Incomplete application

- (1) If the review board is of the opinion that an application for review is incomplete or deficient, the review board will notify the applying party and may request that the applying party send further information to correct the deficiency within 14 days of the date of the request.⁵
- (2) A corrected application, once corrected, is deemed to have been made effective the date the deficient application was received by the review board.
- (3) If the applying party does not provide the requested information within the 14-day period, the review board may refuse the application.

Rule 9 Summary dismissal

- (1) The review board may refuse or dismiss an application for review or part of an application for review, for one or more of the following reasons:
 - a) the matter for review is not within the review board's jurisdiction;
 - b) the application was not filed within the applicable time limit;
 - c) the application is frivolous, vexatious or trivial or gives rise to an abuse of process;
 - d) the application was made in bad faith or for an improper purpose or motive;
 - e) the applying party failed to diligently pursue the application or failed to comply with an order of the review board;
 - f) there is no reasonable prospect the application will succeed; or
 - g) the substance of the application has been appropriately dealt with in another proceeding.⁶

⁵ Act, s.50.61(3).

⁶ Act, s.50.64, Schedule, and s.31(1) of the ATA.

- (2) The review board may, on its own initiative after an application for review has been received, consider whether an application for review should be summarily dismissed. The review board will invite submissions from the applying party, and may, in its discretion, invite submissions from the respondent parties.
- (3) Where the review board considers on its own initiative whether to summarily dismiss an application for review after hearing only from the applying party and before the record is received, and the review board determines that the application for review should be summarily dismissed in whole or in part, the review board will provide the parties with reasons for its decision as required by s.31(3) of the ATA.
- (4) Where the review board considers on its own initiative whether to summarily dismiss an application for review after hearing only from the applying party and before the record is received, and the review board determines that all or part of an application for review is not at that stage appropriate for summary dismissal, no reasons will be given, and that determination is without prejudice to a fresh determination of any summary dismissal application based on the record and the submissions of the college or a registrant, subject to subsections (5) and (6).
- (5) The review board may decline to consider any summary dismissal application made by a registrant or the college until the review board has determined that the matter will proceed to a stage 2 Hearing.
- (6) In a stage 2 Hearing, the review board may, in its discretion, decline to decide a summary dismissal application until it issues its decision on the merits, and may decline to rule on the application at all if the review board considers it unnecessary to do so in view of its decision on the merits.

Rule 10 Notification of intention to refuse or dismiss application

- (1) If on a review of the application, the review board is of the opinion that the application or part of the application raises issues on one or more of the grounds set out in rule 9, the review board will notify the applicant.

- (2) Within 21 days of the date of the notice, the applying party may make a submission to the review board as to whether the application should be summarily dismissed on the grounds set out in the notice.⁷
- (3) After reviewing a submission made under rule 10(2), the review board may:
 - a) accept the application;
 - b) refuse the application;
 - c) request more information or further submissions; or
 - d) dismiss the application.

Rule 11 Notifying the applying party

- (1) The review board will notify the applying party, in writing:
 - a) of a request for further information under rule 10(3)(c);
 - b) of a notice under rule 10(1); or
 - c) of a decision to accept or refuse an application under rule 10(3) and give reasons for that decision.

PART IV THE RECORD⁸

Rule 12 Review on the record

- (1) An application to the review board on a registration decision or a complaint disposition will be conducted as a review on the record, subject to any additional information or evidence that was not part of the record that the review board accepts or requires from a party as reasonably required for a full and fair disclosure of all matters related to the issues under review.⁹

Rule 13 Record for registration reviews

- (1) Subject to subsections (2)–(4) below, the record, for the purposes of a registration review, consists of the registration committee's decision and the college's registration file, whether or not the

⁷ Act, s.50.64, Schedule, and s.31(2) of the ATA.

⁸ A detailed discussion of the record and basis on which these rules have been made can be found in the review board's Practice Directive No. 2 - *Duty of a College to Produce the Record*.

⁹ Act, s.50.54(7), (8) [registration reviews]; s.50.6(6), (7) [complaint disposition reviews].

registration file was placed before the registration committee when the decision under review was made.

- (2) The record produced by the college on a registration review may include a breakdown of the results of an examination or test, but unless an order is made under subsection (3), the record must not include a copy of any actual examination, any record of a question that has or is to be used on an examination or test or any marking criteria.
- (3) At the request of a party or on its own initiative the review board may, after hearing from the parties, order that all or part of an examination, test or marking criteria referred to in subsection (2) be disclosed for purposes of the review on terms or conditions approved by the review board, or be reviewed by the review board in confidence to the exclusion of a party or parties, on terms that the review board considers necessary to ensure the confidentiality, integrity and security of the examination or test and the proper administration of justice.
- (4) Where the review board orders disclosure of some or all of a relevant examination or test under subsection (3) to a party or parties (or their counsel), the review board will require the recipient's acknowledgement that the disclosure is only for the purpose of the review before the review board and that the information will not be disclosed to any other person without the express written consent of the review board.

Rule 14 Record for complaint disposition reviews

- (1) The record, for the purposes of a complaint disposition review, consists of the written decision of the inquiry committee and the contents of the college's investigation file, whether or not the entire file was placed before the inquiry committee when the decision under review was made.

Rule 15 Preparing the record

- (1) The college must prepare a separate and distinct record for each individual application for review unless the review board makes an order to the contrary.

- (2) The record must be:
- a) legible, organized, and sequentially page numbered;
 - b) indexed, with the index identifying:
 - i) those parts of the record that were before the inquiry committee or the registration committee that made the decision; and
 - ii) where any material described in rule 15(3) is severed from the record.
 - c) accompanied by all relevant college bylaws, codes of conduct, standards, guidelines or other college reference material;
 - d) accompanied by a cover letter:
 - i) certifying that the record is complete and accurate; and
 - ii) notifying the review board of any material that has been severed in accordance with rule 15(3).
 - e) prepared in accordance with the requirements of Practice Directive 2.
- (3) Before the college produces the record to the review board, the college may sever from the record the home address, home phone number or private email account and identification or billing number or similar personal identifiers of a witness expert or party (unless, in the case of a party, the party has used that information as contact information for the review process).
- (4) The college will not produce to the review board, as part of the record:
- a) information falling within s.51 of the *Evidence Act*;
 - b) information that concerns unrelated matters referred to in the inquiry committee or registration committee minutes; or
 - c) legal advice the college has received, unless the college is prepared to waive solicitor-client privilege.
- (5) Before the college produces the record, the college may consult with the registrant and/or the complainant where the college believes that particular information or a particular document may raise an issue for that party under s.42 of the ATA.¹⁰ See also rules 18 and 19.

¹⁰ Section 42 of the ATA states: The tribunal may direct that all or part of the evidence of a witness or documentary evidence be received by it in confidence to the exclusion of a party or parties or any interveners, on terms the tribunal considers necessary, if the tribunal is of the opinion that the nature of the information or documents requires that direction to ensure the proper administration of justice.

Rule 16 Production of the record to the review board

- (1) Unless otherwise directed by the review board, the college is required to produce three (3) paper copies of the record to the review board, with one copy in electronic form, together with any application under s.42 of the ATA, within 35 days from the date of the review board's written request for the record.
- (2) If the record cannot be prepared within 35 days, the college must make a written request for an extension of time, copied to the other party or parties to the review, and state the reason(s) for the extension and the length of the extension requested.
- (3) Unless otherwise directed, where the review board grants an application for information or documents contained in the record to be considered by the review board to the exclusion of one or both parties under s. 42 of the ATA, the college is required to produce to the review board the redacted copy of the record for each party within 14 days from the date of the review board's direction.

Rule 17 Disclosure of the record to parties

- (1) Subject to any information or documents that the review board believes ought not to be disclosed to one or more parties under rules 18 and 19 and s.42 of the ATA, the review board will provide a complete copy of the record received from the college to all other parties to the review (i.e. to the applicant for registration or to the complainant and the registrant who is the subject of the complaint) to enable the parties to fairly and properly engage in resolution discussions and to make submissions to the review board at a hearing on the issues under review.

Rule 18 Requests for non-disclosure: complaint disposition reviews¹¹

- (1) If the college is of the opinion that information or documents contained in the record ought to be considered by the review board to the exclusion of one or both parties under s.42 of the ATA, the college is required to identify the information or documents and the

¹¹ For a detailed discussion of the rules governing non-disclosure applications on these reviews, see the review board's Practice Directive No. 3 - *Section 42 Applications under the Administrative Tribunals Act* (Inquiry Committee Disposition Reviews)

basis for the s.42 application at the same time as the college produces the record to the review board.

- (2) Where the college applies to exclude information or documents from both the other parties to the review, the college must at the same time, unless it would defeat the purpose of the application, notify those parties that it has made a s.42 application and provide a summary of the basis for the application (without disclosing the actual information or documents).
- (3) Where the college applies to exclude information or documents from one party to the review (excluded party), the college must:
 - a) copy the other party with the application including, where practicable and appropriate, the particular records in question that pertain to that party (not the complete record); and
 - b) unless it would defeat the purpose of the application, notify the excluded party that a s.42 application has been made, including a summary of the grounds for the application (without disclosing the actual information or documents).
- (4) A complainant or registrant will have 14 days from the date they are provided with the notice titled “Withholding Information in the Record from a Party”¹² to make an application under s.42 of the ATA. A complainant or registrant who makes a s.42 application must:
 - a) identify the particular document or information, if known, that raises the s.42 concern, or otherwise identify any special concerns they have which justify a s.42 order based on their knowledge of the subject matter of the complaint; and
 - b) notify the other party of their application and the basis for the application (without disclosing the actual information or document) unless such notice would defeat the purpose of the application.
- (5) If the review board determines that a refusal to notify the other party or parties is unreasonable, the review board may refuse to consider the application or may provide that notice itself.

¹² The notice titled “Withholding Information in the Record from a Party” is provided to the parties at the time the review board requests the record from the college and is appended to Practice Directive 3

- (6) If no application from a complainant or registrant under s.42 of the ATA is received within the 14 days from the date they were provided with the notice referred to in Rule 18(4), they will be deemed to have no objection based on s.42, subject to their right to make submissions on any s.42 application by the college.
- (7) Once the time for making all s.42 applications has expired, the review board may set a schedule for written or oral submissions.
- (8) Where the review board decides that disclosure of the disputed information or document or a portion thereof is required, the review board will first give notice of its intention to disclose and provide a time frame within which its direction will be carried out. Once that period has expired, the review board will issue the record with any redactions deemed to have been appropriate.

Rule 19 Requests for non-disclosure: registration reviews¹³

- (1) If the college is of the opinion that information or documents contained in the record ought to be considered by the review board to the exclusion of the applicant under s.42 of the ATA, the college is required to identify the information or documents and the basis for the application at the same time as the college produces the record to the review board.
- (2) Where the college applies to exclude information or documents from the applicant the college must at the same time, unless it would defeat the purpose of the application, notify the applicant that it has made a s.42 application and provide a summary of the basis for the application (without disclosing the actual information or documents).
- (3) If a s.42 application is made by the college, the review board will usually provide an opportunity for the applicant to be heard and may set a schedule for written or oral submissions from the applicant and the college.
- (4) Where the review board decides disclosure of the disputed information or document or a portion thereof is required, the review board will first give notice of its intention to disclose and provide a

¹³ For a detailed discussion of the rules governing non-disclosure applications on these reviews, see the review board's Practice Directive No. 4 - *Section 42 Applications under the Administrative Tribunals Act (Registration Reviews)*

time frame within which its direction will be carried out. Once that period has expired, the review board will issue the record with any redactions deemed to have been appropriate.

- (5) Despite subsections (1)-(4), the college is not required to make a s.42 application to redact from the version of the record provided to the applicant reference forms the college obtained from a referee about the applicant during the registration process prior to the applicant's commencement of work in a BC health authority. However, the college must identify the redaction in the record index and ensure that any withheld reference forms are included in the unredacted record provided to the review board on the review.

Rule 20 Complaint inquiry committee record confidential

- (1) The documents and information contained in the record provided by the college on a request for review of an inquiry committee disposition under s.50.53(1)(c) of the Act and disclosed to the parties by the review board for purposes of the review are to be used solely for that purpose.
- (2) The documents and information contained in the record referred to in this Part and disclosed by the review board for purposes of a review must not be disclosed by any party to any other person, except to legal counsel or a representative or agent for purposes of representing that party at a review before the review board.
- (3) The documents and information contained in the record referred to in this Part and disclosed by the review board for purposes of a review must not be used by any party for any purpose other than for the purpose of the review before the review board.
- (4) As the record in a complaint inquiry committee matter may contain sensitive personal health information of one or more persons, the review board will not provide public access to the record provided by the college in any public hearing of a complaint inquiry committee disposition matter. Access to such records will be limited to the parties and only for purposes of a review before the review board.

Rule 21 Additional documents not confidential

- (1) Any additional documents, information or evidence provided by a party to the review board in support of their case may become accessible by the public under s.41 of the ATA if the matter proceeds to an oral hearing, unless the party requests and the review board orders otherwise under s.41(3) of the ATA. All additional documents or information delivered to the review board in a review by a party should include only such personal information as is necessary for purposes of the review.

PART V DELIVERING DOCUMENTS IN A REVIEW

Rule 22 Address for delivery

- (1) All participants must provide notice in writing of an address for delivery of communications regarding the review to the review board and to all other participants.
- (2) If a participant is represented by a lawyer or agent, the lawyer or agent's address for delivery.

Rule 23 Change of address

- (1) A participant must immediately notify the review board and the other parties to the review in writing of a change in address for delivery and may use the Change of Address for Delivery Form in the Appendix to these rules (Form 7).

Rule 24 Delivering a document to the review board

- (1) A document or communication may be delivered to the review board electronically or by mail, fax, hand, or courier to:

Physical Address: Health Professions Review Board
Attn. Executive Director
Suite 900-747 Fort Street
Victoria, BC V8W 3E9

Mailing Address: PO Box 9429 STN PROV GOVT
Victoria, BC V8W 9V1

Email: HPRBINFO@gov.bc.ca

Fax: 250-953-3195

- (2) A document or communication that is delivered by fax must include cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission, and a telephone number to call if there are transmission problems.
- (3) Unless otherwise authorized by the review board in writing, a document delivered by email will only be accepted for service if it is sent to the following email address:

HPRBINFO@gov.bc.ca

- (4) A document or communication that is delivered by email must in the covering email provide sufficient information to identify the sender, recipient, and a telephone number to call if there are transmission problems.
- (5) The hours of operation of the review board are from 8:30 am to 4:30 pm, Monday through Friday, excluding public holidays.
- (6) A document that is received after regular hours of operation is deemed delivered on the next day that the review board is open.

- (7) If a participant delivers a document or communication to the review board, the participant must:
- a) include the names of the participants who will receive a copy of it;
 - b) send a copy of the document or communication to each other participant to the review by a method of delivery set out in rule 25 on the same day as the document or communication is delivered to the review board; and
 - c) not deliver a duplicate copy to the review board of that document or communication unless these rules require, or the review board directs that multiple copies be provided.

Rule 25 Delivering a document to parties in the process

- (1) The review board or a participant may deliver a document or communication to a participant by:
- a) emailing it to a participant's email address authorized by the review board;
 - b) leaving a copy of it with a participant;
 - c) mailing it to a participant's address for delivery by regular or registered mail;
 - d) delivering it by hand or courier to a participant's address for delivery;
 - e) faxing it to a participant's fax address for delivery; or
 - f) by any other means permitted by the review board that allows for proof of receipt.
- (2) A document or communication that is delivered by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission, and a telephone number to call if there are transmission problems.
- (3) If it is impractical to deliver a document or communication in accordance with rule 25(1), the review board may permit an alternate method of delivery to be used, may give directions for substituted delivery and where necessary, may dispense with delivery.

- (4) To apply for authorization to deliver a document or communication by an alternate method of delivery, a participant must deliver a written request to the review board that explains the reasons why it is not feasible to deliver a document or communication to the person by leaving a copy of it with them or by providing it in accordance with the person's address for delivery if they are a party or intervener.

Rule 26 Electronic delivery of documents

- (1) If a participant wishes to deliver or receive delivery of documents by email or other electronic means, the review board may authorize such delivery to or by one or more parties as the review board deems appropriate in the circumstances.
- (2) Electronic communications to the review board may be sent to HPRBINFO@gov.bc.ca.
- (3) When the review board directs that an electronic college record is to be produced as required under rule 16, the review board only accepts receipt of the of the electronic Record through the BC Government Secure File Transfer System.
- (4) The review board may authorize access to the BC Government Secure File Transfer System to a party for purposes of receiving and distributing electronic records.

Rule 27 Deemed delivery

- (1) If the review board or a participant delivers a communication to a participant's address for delivery under rule 22, that participant is deemed to have notice of the communication.
- (2) A document or communication that is delivered after 4:30 pm is deemed delivered on the next day that is not a Saturday, Sunday or public holiday.
- (3) A document or communication that is sent by mail is deemed delivered on the fifth day after it is mailed, excluding a Saturday, Sunday or public holiday.
- (4) A document or communication that is sent by email is deemed delivered on the day and time it is sent.

Rule 28 Proof of delivery

- (1) If the review board requires proof of delivery, a participant may prove delivery by:
 - a) an affidavit from the deliverer setting out the time, date and method of delivery;
 - b) a copy of “Canada Post’s Certificate of Delivery Confirmation – Registered Mail”;
 - c) Express Post or Priority Post tracking confirmation;
 - d) a fax transmittal sheet;
 - e) having the deliverer testify under oath or solemn affirmation at a hearing as to the time, date, and method of delivery; or
 - f) forwarding the sent email

Rule 29 Alternative methods of delivery

- (1) If ordinary methods of delivery have not or are not likely to be effective, the review board may permit or require an alternative method of delivery.

Rule 30 Proceedings not invalidated

- (1) If a notice, correspondence or document is not delivered in accordance with this Part the proceeding is not invalidated if the review board determines that the failure to deliver does not result in prejudice to the person or any prejudice can be satisfactorily addressed by an adjournment or other means.

PART VI CASE MANAGEMENT

Rule 31 Streaming

- (1) At any time, the review board may direct an application into one or more of the following process streams:
 - a) Facilitated Settlement (Part VII);
 - b) Pre-hearing Preparation (Part IX); or
 - c) Hearing Procedure (Part X).

- (2) At any time, the review board may use more than one process stream or change the process stream being used if it considers using an additional process stream or making the change may assist in conducting the review or resolving the matter.

Rule 32 Requests for orders, directions or a preliminary decision

- (1) At any time after an application has been made, a participant may make a written request to the review board for a direction, order or decision on any aspect of the conduct of the proceeding or any other matter.
- (2) The written request does not need to be in any particular form, but the notice must set out the grounds for the request and the relief requested and be accompanied by any evidence relied on.
- (3) A copy of the request for a preliminary order, direction or decision must be delivered to all other participants at the same time it is delivered to the review board.
- (4) The other participants to an application may be given an opportunity to make written submissions on the request prior to the review board making a decision on the request. All participants making a submission on a preliminary request must deliver a copy of their submissions and any evidence to the other participants at the same time they deliver it to the review board.
- (5) After considering the request and any information or submissions the review board considers relevant in the circumstances, the review board will notify the participants, in writing, of its direction, order or decision.
- (6) The review board may, in its discretion, defer decision on a preliminary request until a pre-hearing conference, the hearing of the review, or issuance of its final decision in the matter.

Rule 33 Directions

- (1) At any time after an application is made, the review board may make directions requiring a participant to take action the review board considers may assist the conduct of the review or the matter being resolved, including directions on one or more of the following:
 - a) to disclose documents;
 - b) to produce lists of witnesses, including expert witnesses, and summaries of the anticipated evidence of witnesses;
 - c) the joint appointment of expert witnesses by one or more of the parties;
 - d) to prepare, exchange and deliver a statement of points; or
 - e) to prepare, exchange and deliver written submissions.
- (2) Where a party reasonably requests an extension of time to fulfil the review board's directions, the review board may decide to give more time without asking the other parties for their positions.

Rule 34 Statement of points¹⁴

- (1) The review board may make directions with respect to the information to be included in a statement of points and require that a statement of points be prepared and produced to the review board and to the other parties within a specified time.
- (2) The review board may make directions requiring responses to the statement of points to be prepared and delivered to the review board and to the other parties within a specified time.
- (3) The statement of points, any responses and any supporting documents will be presented to the panel hearing the matter as written submissions in the review.

¹⁴ Further information on the contents and preparation of a statement of points may be found in the review board's Information - Sheet -Statement of Points.

Rule 35 Reviews involving similar questions

- (1) If two or more applications for review before the review board involve the same or similar parties, questions or issues, the review board may:
 - a) combine the applications or any part of them;
 - b) hear the reviews at the same time;
 - c) hear the reviews one immediately after the other; or
 - d) stay one or more of the reviews until after the determination of one of them.¹⁵
- (2) The review board may make a direction under subsection (1) on its own initiative, and thereafter give the parties an opportunity to show cause, within the time limits set by the review board, as to why the direction should be changed.
- (3) The review board may make additional orders directing the procedure to be followed with respect to applications under this rule.
- (4) Factors that the review board may consider in determining whether it is appropriate to join, combine or hear jointly two or more applications for review of an inquiry committee disposition, include but are not limited to whether:
 - a) it is the same complainant in all cases and the same college;
 - b) there was a single originating letter of complaint concerning the members complained against and/or the allegations are, in all or nearly all cases, the same or substantially similar;
 - c) the allegations in all or nearly all cases reflect a sequence of related events that make up a complete episode or event and/or the context for the conduct complained of is, in all cases, substantially similar;
 - d) the records of investigation provided by the college to the review board are in large part identical;
 - e) the complaint inquiry committee decisions are in large part identical or contained in the same notification letter;
 - f) a joint review would preclude the occurrence of different or conflicting decisions based on similar or identical information;
 - g) it appears no party will be unduly prejudiced by joining the cases or hearing them jointly; and
 - h) a joint review would make better use of the review board and parties' resources.

¹⁵ ATA, s.37

- (5) Factors that the review board may consider in determining whether it is appropriate to join, combine or hear jointly two or more applications for review of registration decisions include but are not limited to whether:
- a) it is the same college in all cases;
 - b) the cases raise the same issues;
 - c) the facts and circumstances of each case are similar;
 - d) the registration decisions are in large part identical;
 - e) a joint review would preclude the occurrence of different or conflicting decisions based on similar information;
 - f) it appears no party will be unduly prejudiced by joining the cases or hearing them jointly; and
 - g) a joint review would make better use of the review board's and parties' resources.
- (6) Applications involving more than one college will not generally be combined or heard jointly but may be heard consecutively.
- (7) Where the review board has made a direction in respect of two or more applications for review under subsection (1), information or evidence from one review file must not be considered by the hearing panel in respect of another review unless:
- a) the review applications are ordered to be combined or heard together under rule 35(1)(a) or (b), taking into account the factors in subsection (4) or (5), depending on the nature of the review, or,
 - b) the review board has issued an order specifying the extent to which the information or evidence from one review may be used in the other review(s) and any other terms related to the use of such evidence.

PART VII FACILITATED SETTLEMENT

Rule 36 Commencement

- (1) An application will proceed to mediation unless the review board directs the matter into the pre-hearing conference or hearing process stream.

- (2) The chair will appoint a member(s) of the review board and/or staff to conduct the mediation.
- (3) The review board may require some or all of the parties to participate in a mediation.¹⁶
- (4) The review board may require a party to participate in a mediation even if that party does not consent.
- (5) The review board may require the parties to separately attend one or more pre-mediation meetings with the mediator(s) to be held in person or by telephone.
- (6) The review board will notify the parties, in writing, of the scheduled date of the mediation.

Rule 37 Confidentiality

- (1) The proceedings of a mediation are confidential and unless all participating party's consent, a party must not, other than in a criminal proceeding, disclose or be compelled to disclose:
 - a) a document or other record created by a party specifically for the purpose of achieving a settlement of one or more of the issues under review through mediation; or
 - b) a statement made by a party specifically for the purpose of achieving a settlement of one or more of the issues under review.¹⁷
- (2) Where mediation is voluntary, before mediation begins all participating parties and any other persons attending the mediation must sign a Form 8 Agreement to Mediate that includes a confidentiality clause prescribed in these rules.
- (3) Where mediation is mandatory, before mediation begins, all participating parties must sign a Form 12 Acknowledgment of Mandatory Mediation Process and Duty of Confidentiality which acknowledges that they have read rules 36-38.
- (4) Notwithstanding subsections (1) – (3), the fact that a party did not attend mandatory mediation may be disclosed as permitted by rule 38(C).

¹⁶ ATA, s.28

¹⁷ ATA, s.29

Rule 38 Failure to attend mediation

A. Failure by college or registrant to participate

- (1) If the college or registrant fails to participate in mediation the review board may proceed with mediation in the absence of that party.
- (2) If the member responsible for prehearing management of the application for review determines that the college or registrant without good reason failed or refused to participate in mediation, the member may do one or both of the following:
 - a) direct the application into another process stream without notice to that party; and
 - b) order that the application proceed with the new process stream in the absence of that party.

B. Failure by complainant or applicant to participate

- (1) If the review board determines that the complainant or applicant refused to participate in a mediation, the review board may do one or more of the following:
 - a) direct the application into another process stream without notice to that party;
 - b) order that the application proceed with the new process stream in the absence of that party; or
 - c) dismiss the application for review.

C. Failure to attend mediation as required: possible award of costs

- (1) If a party required to attend mediation did not comply with that requirement:
 - a) the mediator conducting the mediation may write a confidential memorandum to the case manager recording that fact;
 - b) the case manager may disclose that confidential memorandum to the hearing panel only after the hearing panel has issued its decision to the parties; and

- c) the hearing panel, no later than 21 days after the hearing decision has been issued and irrespective of the outcome of the review, may write to the parties seeking submissions on whether the party who refused to attend should pay the costs of the other party or parties and part of the costs of the review board under rule 54.1.

Rule 39 Action after mediation

- (1) At any time after a review has been directed to mediation, the review board may:
 - a) dismiss the application if all issues are resolved; or
 - b) if all issues are not resolved, direct the application into another process stream.

PART VIII SETTLEMENT AND WITHDRAWAL

Rule 40 Settlement of an application¹⁸

- (1) If the parties to an application advise the review board in writing that they have reached a settlement of all or part of the application, the review board will order that the application or part of it is dismissed.
- (2) If the parties reach a settlement in respect of all or part of the subject matter of the application, on the request of the parties, the review board may make an order that includes the terms of settlement if it is satisfied that such an order is consistent with the Act.
- (3) If the parties seek an order including the terms of settlement they must:
 - a) set out the particulars of the proposed order; and
 - b) provide proof satisfactory to the review board that the order is consented to by all parties to the review.

¹⁸ ATA, s.17

- (4) The decision to issue a consent order is within the sole discretion of the review board. If the review board has questions or otherwise considers it necessary to hear further from the parties before deciding whether to issue a consent order, it will specify a process for hearing from the parties on the matters at issue.
- (5) If the parties request an order that includes the terms of settlement and the review board declines to issue the order requested, the review board will provide the parties with its reasons for declining.
- (6) If the applicant or complainant withdraws all or part of the application for review and provides the withdrawal form to the review board, the review board will order that the application or part of it is dismissed under Rule 41.

Rule 41 Withdrawing an application¹⁹

- (1) At any time before the review board has made its final decision disposing of the application, an applying party may withdraw the application or part of it by sending a written notice of withdrawal to the review board and to the other parties.
- (2) The notice of withdrawal must identify the review and the parties and be signed by the applying party or their representative. A notice of withdrawal may be in the form provided in the Appendix to these rules (Form 9).
- (3) Upon receipt of a notice of withdrawal from an applying party, the review board will order that the application or part of it is dismissed.
- (4) If an applying party has advised the review board or another party that they wish to withdraw or do not intend to pursue the application, the review board may require the applying party to provide a written statement to that effect or provide, within a specified time, written confirmation of the intention to pursue the application. If written confirmation of the applying party's intention to continue is not delivered to the review board by the specified time, the review board may deem the review to be withdrawn and issue an order to that effect.

¹⁹ ATA, s.17.

PART IX PRE-HEARING PREPARATION

Rule 42 Pre-hearing conference

- (1) The review board may
 - a) on its own initiative; or
 - b) on the written request of a party require the parties to attend one or more pre-hearing conferences.
- (2) A notice of pre-hearing conference will set out:
 - a) the date, time, location or phone number for the pre-hearing conference; and
 - b) the pre-hearing conference agenda.
- (3) At a pre-hearing conference, the review board may direct the parties to consider and discuss one or more of the following, and may make orders or directions about:
 - a) the issues;
 - b) the timely disclosure of any additional documents, information or evidence to be submitted for the review hearing;
 - c) production of lists of witnesses, including expert witnesses, and summaries of the anticipated evidence of witnesses;
 - d) production of any expert reports that may be relied upon;
 - e) the scheduling for delivery of statements of points or other written submissions;
 - f) process for determining any preliminary or interim applications,
 - g) the form, manner, date, time and location for a hearing;
 - h) opportunities for settlement of the application or a part of it; and
 - i) any matter relevant to the conduct of the proceeding or resolution of the matter.
- (4) If a member participates in a pre-hearing conference, the member may issue interim or preliminary orders or directions regarding any matter arising at the pre-hearing conference. A member participating in a pre-hearing conference may also participate in the hearing of the matter.

- (5) If a party fails to participate in a pre-hearing conference without satisfactory advance explanation to the review board, the pre-hearing conference may proceed in that party's absence.
- (6) A pre-hearing conference report may be issued recording the orders, directions, agreements and undertakings made at a pre-hearing conference, but will not include a record of any without prejudice settlement discussions.

PART X HEARING PROCEDURE

Rule 43 Notice and form of hearing

- (1) The review board may direct the matter to a hearing on its own initiative or at the written request of a party.
- (2) The review board may direct, on its own initiative or on the request of a party, that a review hearing be conducted in writing, in-person, or by using an electronic format such as video or teleconference or by internet, or any combination of these formats.
- (3) The review board will provide directions regarding the process and timeframe for submissions in the written hearing process.
- (4) Where the review board directs an oral hearing to be held, the review board has discretion to determine the location of the oral hearing.
- (5) The review board will inform the parties, in writing, of the form, date, time and location of the oral hearing.

Rule 44 Hearing process

- (1) Subject to the discretion of the Chair or the Chair's delegate to order otherwise, the review board will conduct a stage 1 hearing before determining whether to conduct a stage 2 hearing.
- (2) The review board may confirm an inquiry committee disposition under s.50.6(8)(a) or a registration decision under s.50.54(9)(a) at a stage 1 hearing.

- (3) No order will be made under s.50.6(8)(b) or (c) [directing the inquiry committee to make a disposition that could have been made by the inquiry committee in the matter, or sending the matter back to the inquiry committee for reconsideration with directions] or s. 50.54(9)(b) or (c) [directing the registration committee to make a decision that could have been made by the registration committee in the matter, or sending the matter back to the registration committee for reconsideration with directions] of the Act at a stage 1 hearing
- (4) If the review board determines to conduct a stage 2 hearing the review board:
 - a) will notify the parties by letter;
 - b) may request that the parties address specified issues or questions; and
 - c) will make no decision until the stage 2 hearing is concluded.
- (5) Where a stage 2 hearing is conducted, and the hearing proceeds in writing, subject to the panel's direction otherwise, the college and then, where applicable, the registrant(s), will be invited to provide submissions in response to those provided by the applicant or complainant at stage 1, and in relation to issues specified by the panel at the conclusion of the stage 1 hearing. The applicant or complainant will then have the final opportunity of reply.
- (6) At an oral stage 2 hearing, the panel may alter the ordinary order of presentation, and allow the college to present first if the panel concludes that this is necessary owing to unique circumstances relating to the applicant or complainant, the complexity of the record or agreement of the parties. In such a case, the panel will ensure that the complainant or applicant is given a fair opportunity to respond to the evidence and submissions of the college and registrant.
- (7) At any time before or during a hearing, the review board, on the request of a party or on its own initiative, may:
 - a) require the production of documents or other material;
 - b) require the attendance of witnesses;
 - c) make a determination as to the admissibility of evidence;
 - d) adjourn the hearing;
 - e) proceed in the absence of a party who has had notice of the hearing;
 - f) ask questions;
 - g) require written submissions; or

- h) make any direction the review board considers necessary for the conduct of the review, or a just and timely resolution of the matter.

Rule 45 Composition of hearing panel

- (1) A hearing may be conducted by one or more members of the review board.
- (2) If two or more members of the review board are designated to conduct the hearing, the hearing will be chaired by the member designated as such by the chair of the review board. In the case of a tie, the decision of the chair of the panel governs.²⁰
- (3) A member of the review board who has conducted a mediation in a review or was involved in a pre-hearing conference in a review where settlement discussions took place will not be designated to conduct a hearing of the matter unless all parties consent.

Rule 46 Public access and recording

- (1) Unless otherwise directed by the review board, oral hearings are open to the public.
- (2) Where sensitive personal information is to be presented in evidence at an oral hearing, a party may request the hearing panel to exclude the public from the hearing and/or to keep the information confidential.²¹
- (3) Unless otherwise decided by the review board, the review board will not record the hearing. If the hearing is to be recorded by the review board the parties will be so advised in advance of the hearing.
- (4) In any case where a hearing is recorded and a participant wishes to obtain transcripts of the hearing, the participant will be required to pay the costs of transcription and copying. Arrangements for transcription and copying must be made by that participant directly through the recording service used to officially record the hearing.

²⁰ ATA, s.26(6).

²¹ ATA, s.41.

- (5) If the review board makes a tape recording of the hearing, or causes the hearing to be recorded, the recording will form part of the official record of the proceeding. The proceeding is not invalidated as a result of a malfunction of the recording equipment, the failure to record the whole or part of the hearing, or the destruction of the recording.
- (6) Participants and any other person in attendance at the hearing may not record the hearing or any portion of the hearing except with the express consent of and on the terms set by the review board. A recording made by a participant or other person under this rule is not part of the official record of the proceedings.
- (7) The review board will not provide public access to a transcript or tape recording of an oral hearing.

Rule 47 Interpreters and other accommodations

- (1) If a participant, witness, or his or her representative requires an interpreter and/or any other accommodation (e.g. services to assist the visually or hearing impaired) to enable their meaningful participation at the hearing, the review board will, at the request of the participant or on its own initiative, make every effort to accommodate such person's needs, as is reasonable in the circumstances. The person requesting interpretation or other accommodation must notify the review board as early as possible in the review process.
- (2) Interpreters for other languages shall be competent and independent and shall swear or affirm that they will interpret accurately.

Rule 48 Adjournments

- (1) At any time, the review board, on its own initiative or on the request of a party, may adjourn a review and may set a date for the review to resume.
- (2) Except in extenuating circumstances, the review board will give other parties an opportunity to be heard before granting a request to adjourn a review.

- (3) Any party or intervener receiving a copy of a request for adjournment may deliver to the review board any submissions they may have on the adjournment request within three (3) days of the date of receipt of the request.
- (4) In considering whether to grant the request to adjourn a review, the review board will have regard to the following factors:
 - a) the reason(s) an adjournment is required;
 - b) whether the adjournment would cause unreasonable delay;
 - c) the impact of refusing the adjournment on the parties;
 - d) the impact of granting the adjournment on the parties;
 - e) the impact of the adjournment on the public interest.²²
- (5) If a review is adjourned, the review board may order any terms and conditions respecting rescheduling, attendance at a pre-hearing conference, production of documents or reports, or in respect of any other matters which may assist with the fair and efficient conduct of the review.

Rule 49 Failure to attend hearing

- (1) If a party fails to attend a hearing, the review board may:
 - a) proceed in the absence of the party;
 - b) adjourn the hearing;
 - c) decide the matter solely on the material before it; or
 - d) make any direction the review board considers necessary for the conduct of the review or a just and timely resolution of the matter.

PART XI EVIDENCE

Rule 50 Admission of additional information and evidence

- (1) The review board is not bound by the legal rules of evidence and may admit any information or evidence it considers relevant to the matter before it and appropriate in the circumstances.²³

²² ATA, s.39.

²³ ATA, s.40(1).

- (2) On a registration review or complaint disposition review, the review board may consider information or evidence in a review that was not part of the record where reasonably required by the review board for a full and fair disclosure of all matters related to the issues under review.²⁴
- (3) All documents and submissions delivered to the review board in advance of a hearing will be considered information that the review board may consider in its decision-making process.
- (4) A party who wishes to present additional documents or other information must identify the evidence or information in writing to the review board and the other parties and may use the forms (Forms 10 and 11) provided for that purpose in the Appendix to these rules.
- (5) Where a party objects to the review board considering such additional information or evidence, or a portion of it, the review board may make a decision on that question at the time of the objection, either prior to or at the hearing, or it may receive the information or evidence and consider the objection in the course of rendering its decision on the case.

Rule 51 Witnesses²⁵

- (1) Subject to any directions of the review board, in an oral or electronic hearing, a party may:
 - a) call persons as witnesses and ask them questions;
 - b) submit into evidence through a witness written reports; statements, documents or recordings of any kind; or
 - c) ask questions of any persons called as witnesses by another party.
- (2) The parties must arrange for the attendance of witnesses, production of documents and other evidence at a hearing. It is up to the parties to ask a person or persons to voluntarily attend a hearing, give evidence, and/or provide certain documents.

²⁴ Act, s.50.54(8) [registration reviews]; s.50.6(7) [complaint disposition reviews]

²⁵ ATA, s.38

- (3) If a proposed witness refuses to attend a hearing voluntarily or refuses to testify or produce documents, a party may ask the review board to make an order under rule 54 requiring a person to attend a hearing and give evidence or to produce particular relevant documents in their possession.
- (4) The review board may require that a witness give testimony under an oath or affirmation.
- (5) The review board may ask questions of a witness.

Rule 52 Expert Evidence

- (1) If a party wishes to qualify a witness as an expert in relation to a matter, the party must, unless the review board authorizes otherwise, at least 30 days prior to the hearing, provide the review board and all parties with a report setting out:
 - a) the proposed expert's qualifications; and
 - b) a summary of the proposed expert's opinion, including the facts and assumptions on which it is based.
- (2) A party who wishes to submit the evidence of an expert in response to an expert report delivered by another party must do so at least seven (7) days before the scheduled hearing date.
- (3) A party who submits the evidence of an expert must make the expert available for cross-examination as to their qualifications and their report at the hearing, unless the review board authorizes otherwise, or the other parties agree such attendance is not necessary.
- (4) A panel may refuse to consider a report where this rule has not been complied with.
- (5) A panel may waive the requirements of this rule where it considers it appropriate and may impose such other requirements regarding receipt and exchange of expert evidence as it considers appropriate in the circumstances.
- (6) It is not necessary for a person to qualify as an expert in order to provide opinion evidence.

Rule 53 Order to compel a witness and order disclosure

- (1) A party may apply to the review board, at least 14 days before the first day of the hearing, for an order requiring another person:
 - a) to attend an oral or electronic hearing to give evidence that is admissible and relevant to an issue in the review; or
 - b) to produce for the review board or another party a document or other thing in the person's possession or control as specified by the review board that is admissible and relevant to an issue in the review.²⁶
- (2) The application must be in writing and include:
 - a) the name and address of the witness;
 - b) the reason their attendance is required and why their evidence is relevant to the review;
 - c) a description of the documents or other items, if any, which the witness is requested to produce or bring to the hearing and the reason why such materials are relevant; and
 - d) what efforts have been made to have the witness attend or produce the documents voluntarily.
- (3) An application to the review board to issue an order to a witness to attend does not have to be delivered to the witness or any other party.
- (4) Where the person lives elsewhere than the place of hearing, the review board may make an order requiring the party applying for the order to pay reasonable estimated traveling expenses to attend the hearing in advance of the required attendance.
- (5) If an order to attend is issued, the party who applied will be required to serve the order on the witness within a reasonable time before the witness is required to appear.

²⁶ ATA , s.34(3)

- (6) A person who is ordered to appear at a hearing may apply to the review board in writing before the hearing, or in person at the hearing, for the order to be cancelled or amended. The review board may amend the terms of or cancel the order if satisfied that:
- a) the person has no relevant evidence to give;
 - b) the person's evidence may be obtained through some other means;
 - c) the person's evidence is protected by legal privilege; or
 - d) the attendance of the person will be unduly inconvenient.
- (7) Except in extenuating circumstances, the review board will give the participant requesting the order for a witness to attend an opportunity to be heard before amending the terms of or canceling an order regarding a witness.
- (8) Where the review board cancels an order to attend, it may make any other order it thinks is fair, including an order changing the date of the witness' appearance at the hearing or providing some other means by which the witness' evidence will be obtained.

PART XII POST HEARING MATTERS

Rule 54 Decisions

- (1) A decision of the review board (except a ruling on procedural and other similar matters) will be made in writing and include reasons.
- (2) The review board will provide each party and any interveners with a copy of the decision.
- (3) The decision will be effective on the date it is issued, unless otherwise specified in the decision.
- (4) All written decisions concluding a matter before the review board will be made available to the public by posting the decision on the national CanLii website not less than seven (7) days after the decision is provided to the parties.²⁷

²⁷ ATA, s.50(4).

- (5) The review board may correct a typographical error, an error of calculation, an omission or any other similar error in its decision.

Rule 54.1 Costs

- (1) The review board may, on a complaint disposition review or a registration review, on its own initiative or an application by a party, and on principles it considers appropriate, make an award of costs against one or more parties, including making an award of costs pursuant to the process set out in rule 38 irrespective of the outcome of the review.

PART XIII GENERAL

Rule 55 Practice directives

- (1) The chair may issue practice directives to provide information or set requirements for the practices and procedures of the review board.

Rule 56 Communication of orders, directions and decisions

- (1) The executive director of the review board may communicate the review board's orders, decisions or directions with regard to any matter covered by these rules.

Rule 57 Representation

- (1) A party may represent themselves in a review or be represented by legal counsel or an agent.²⁸
- (2) Legal counsel or an agent must notify the review board if they cease to represent the party and must provide the review board with the most current contact information they have for the party.
- (3) With the permission of the review board, and subject to any terms and conditions imposed by the review board, a party may be assisted by a friend, family member or other person while representing themselves in the proceeding.

²⁸ ATA, s.32

- (4) Legal counsel or an agent for a party or any person permitted by the review board to assist the party under rule 58(3) may appear without the party only with the permission of the review board.

Rule 58 Interveners

- (1) In exceptional circumstances the review board may allow a person to intervene in an application under s.33 of the ATA.
- (2) A person may apply to participate as an intervener in a review by delivering a written request to the review board that demonstrates the following:
 - a) the person can bring a valuable contribution or bring a valuable perspective to the review; and
 - b) the potential benefits of the intervention outweigh any prejudice to the parties caused by it.
- (3) The review board will give the parties an opportunity to be heard before granting an application to intervene in a review.
- (4) Any person granted intervener status under this rule must provide the review board with their address for delivery under Rule 22.
- (5) The review board may limit or impose terms and conditions on the participation of an intervener in a review and, unless specifically authorized by the review board, an intervener may not submit evidence in a review.

PART XIV COMPLIANCE WITH RULES

Rule 59 Application of the rules

- (1) All parties and interveners must comply with these rules and any practice directives issued under s.13 of the ATA unless the review board orders or directs otherwise.

- (2) Every time limit set out in these rules is subject to being extended or shortened by the review board, at the request of a party or on its own initiative, whether before or after the time limit has expired, as the review board considers fair and appropriate in the circumstances.
- (3) To apply to extend or reduce a time limit, a party must deliver a written request to the review board that explains the reasons the extension or reduction of the time limit is required.
- (4) Before granting the extension or reduction of a time limit in these rules, the review board may give other parties an opportunity to be heard where the review board determines it would be fair and just to do so.

Rule 60 Calculation of time

- (1) In calculating time under these rules or in an order or direction of the review board:
 - a) the number of days between two events is counted by excluding the days on which those events happen; and
 - b) if the last day of a time period for delivering a document or communication or doing any other thing falls on a Saturday, Sunday or public holiday, the time ends on the next day that is not a Saturday, Sunday or public holiday.

Rule 61 Effect of non-compliance

- (1) A failure to comply with an order or a requirement in these rules does not automatically invalidate a review, but the review board may dismiss the application for review on that basis in accordance with this rule.²⁹

²⁹ ATA, s.18

- (2) Where there has been a failure to comply with a requirement in these rules or a direction or an order of the review board, the review board may on its own motion, after giving notice to the parties:
 - a) schedule a written, electronic or oral hearing;
 - b) continue with an application and make a decision based on the information before it, without providing an opportunity for submission; or
 - c) dismiss the application.
- (3) If any party believes they have been adversely affected by the failure of another party or intervener to comply with these rules, the party may deliver to the review board and to the other parties a submission specifying:
 - a) the alleged non-compliance;
 - b) the reasons why it has had an adverse impact on the party; and
 - c) the remedy sought to address the non-compliance.
- (4) Any party or intervener who receives a copy of a request under Rule 61(3) has seven (7) days to deliver to the review board and the other parties a response submission.
- (5) Where the review board finds non-compliance with the rules to have occurred, it may consider that non-compliance in making any further orders it may have the authority to make.