

The Practitioner Staff Appeals Regulations

being

Chapter R-8.2 Reg 5 (effective December 16, 2005) as
amended by Saskatchewan Regulations 96/2018.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER R-8.2 REG 5
The Regional Health Services Act

Title

- 1 These regulations may be cited as *The Practitioner Staff Appeals Regulations*.

Interpretation

- 2 In these regulations:

- (a) **“Act”** means *The Regional Health Services Act*;
- (b) **“appellant”** means a practitioner who commences an appeal pursuant to these regulations;
- (c) **“board”** means:
 - (i) a regional health authority; or
 - (ii) the board of directors of a prescribed affiliate;
- (d) **“hearing”** means a hearing of an appeal pursuant to subsection 45(1) of the Act;
- (e) **“practitioner”** means a person who has a right to appeal a decision of a regional health authority or a prescribed affiliate pursuant to subsection 45(1) of the Act;
- (f) **“prescribed affiliate”** means an affiliate that is prescribed pursuant to subsection 8(2) of *The Regional Health Services Administration Regulations* as an affiliate that is required pursuant to section 43 of the Act to make bylaws respecting practitioner staff;
- (g) **“respondent”** means the board named in a notice of appeal as the respondent;
- (h) **“tribunal”** means the Practitioner Staff Appeals Tribunal established pursuant to section 3.

23 Dec 2005 cR-8.2 Reg 5 s2.

Establishment and composition of tribunal

- 3(1) The Practitioner Staff Appeals Tribunal is established to hear and determine appeals pursuant to subsection 45(1) of the Act.

- (2) The tribunal consists of the following members appointed by the minister:
- (a) one member appointed from among three persons nominated by the College of Physicians and Surgeons of the Province of Saskatchewan;
 - (b) one member appointed from among three persons nominated by the Saskatchewan Medical Association;
 - (c) one member appointed from among three persons nominated by the College of Dental Surgeons of Saskatchewan;
 - (d) one member appointed from among three persons nominated by The Chiropractors' Association of Saskatchewan;

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- (e) one member appointed from among three persons nominated by the Saskatchewan Association of Health Care Organizations; and
 - (f) two members appointed from among six persons who are authorized pursuant to *The Legal Profession Act, 1990* to practise law in Saskatchewan and who are nominated by the Law Society of Saskatchewan.
- (3) A person is disqualified from being appointed as a member of the tribunal if the person is:
- (a) an employee of the department or an agency for which the minister is responsible; or
 - (b) a judge of the Court of Queen's Bench or Court of Appeal.
- (4) The minister may appoint one of the members of the tribunal to be the chairperson and one of the members to be the vice-chairperson.
- (5) Each member of the tribunal holds office at pleasure for a term not to exceed three years and until a successor is appointed.
- (6) A member of the tribunal may be reappointed for a second or subsequent term.
- (7) A majority of members of the tribunal constitutes a quorum of the tribunal.

23 Dec 2005 cR-8.2 Reg 5 s3.

Vacancy on tribunal

- 4(1) Subject to subsection (2), if the office of a member of the tribunal becomes vacant, the minister may appoint another person for the remainder of the term of the person who vacated the office.
- (2) A person appointed to fill a vacancy must be appointed in accordance with subsection 3(2) so as to maintain the composition of the board as set out in that subsection.
- (3) A vacancy in the office of a member of the tribunal does not impair the power of the remaining members of the tribunal to act.
- (4) If a member's term of office expires before the completion of a hearing in which the member has participated, the member is deemed to continue to be a member of the tribunal for the purpose of completing the hearing.

23 Dec 2005 cR-8.2 Reg 5 s4.

Remuneration

- 5(1) Members of the tribunal are entitled:
- (a) to be paid any remuneration that may be approved by the Lieutenant Governor in Council for performing their responsibilities; and
 - (b) to be reimbursed for accommodation, travel and sustenance expenses incurred in performing their duties pursuant to these regulations in accordance with the rates paid to members of the public service of Saskatchewan.
- (2) A member of the tribunal who is also a member of the public service of Saskatchewan is not eligible to receive remuneration, but may be reimbursed for expenses in accordance with the rates paid to members of the public service of Saskatchewan.

23 Dec 2005 cR-8.2 Reg 5 s5.

Registrar, administrative support

- 6(1) The minister may appoint a registrar of the tribunal for the purposes of providing assistance to the tribunal.
- (2) Employees of the department are not disqualified from being appointed as registrar.
- (3) The minister may provide any professional, technical or clerical support or other assistance that the chairperson considers necessary or advisable.

23 Dec 2005 cR-8.2 Reg 5 s6.

Panels

- 7(1) Appeals are to be heard and determined by a panel of three or more members of the tribunal.
- (2) Subject to subsections (3) and (4), the chairperson shall select the members of the tribunal who are to sit on a panel.
- (3) No member of the tribunal shall be selected for a panel if:
 - (a) the member has been consulted with respect to the making of the decision that is being appealed;
 - (b) the member is an employee or member of the board whose decision is being appealed; or
 - (c) the member is a lawyer and that member provides legal services to the board whose decision is being appealed.
- (4) One of the members of a panel shall be the chairperson or the vice-chairperson, and that member shall act as the chairperson of the panel.
- (5) Any number of panels may sit concurrently.
- (6) A panel may exercise any of the powers or perform any of the duties of the tribunal.
- (7) A majority of the members of a panel constitutes a quorum of the panel and, subject to subsections (8) to (10), a decision of a majority of the members of a panel is a decision of the tribunal.
- (8) In the event of a tie, the chairperson or the vice-chairperson who is a member of the panel shall have the casting vote.
- (9) Subject to subsection (10), if a vacancy occurs in a panel after a hearing has commenced, the remaining members of the panel may continue with the hearing and render a decision in the matter.
- (10) The chairperson shall appoint a new panel to rehear an appeal if:
 - (a) either:
 - (i) a tie occurs and the remaining members of the panel do not include the chairperson or vice-chairperson; or
 - (ii) a further vacancy occurs before a decision has been made; and
 - (b) the appellant applies for a rehearing.

23 Dec 2005 cR-8.2 Reg 5 s7; 21 Dec 2018 SR
96/2018 s3.

Commencement of appeal

8(1) A practitioner who is aggrieved by a decision of a board with respect to a matter set out in subsection 45(1) of the Act may appeal that decision to the tribunal by serving a notice of appeal on the tribunal and a copy of the notice of appeal on the respondent within 30 days after the day on which the practitioner is served with a copy of the decision.

(2) A notice of appeal is required:

- (a) to be in writing;
- (b) to set out:
 - (i) the matter described in subsection 45(1) of the Act to which the appeal relates; and
 - (ii) the grounds of appeal;
- (c) to be signed by the appellant or the appellant's solicitor;
- (d) to set out the appellant's address for service; and
- (e) to be accompanied by a copy of the decision that is the subject of the appeal.

(3) If the appellant wishes to rely on any correspondence, memoranda or other documents at the hearing of the appeal, the appellant must serve the tribunal and the respondent with copies of those documents within 45 days after serving the notice of appeal.

23 Dec 2005 cR-8.2 Reg 5 s8.

Submissions of respondent

9 Within 30 days after being served with the materials described in subsection 8(3) or, if no materials are served pursuant to subsection 8(3), within 30 days after the expiry of the 45-day period mentioned in subsection 8(3), a respondent may:

- (a) file with the tribunal written submissions in response to the notice of appeal, including copies of any correspondence, memoranda or other documents relating to the appeal that the respondent wishes to rely on at the hearing of the appeal; and
- (b) serve the appellant with a copy of the written submissions and copies of any correspondence, memoranda or other documents filed with the tribunal.

23 Dec 2005 cR-8.2 Reg 5 s9.

Hearing

10(1) The tribunal shall:

- (a) within 30 days after receiving a respondent's written submissions or, if the respondent fails to file written submissions within the period established by section 9, within 30 days after the expiry of that period, set a date, time and place for the hearing of the appeal; and
- (b) promptly give notice of the date, time and place of the hearing to the appellant and respondent.

(2) On the written request of an appellant or a respondent or on its own motion, the tribunal may extend the time for doing any thing pursuant to these regulations other than the time for commencing an appeal pursuant to subsection 8(1).

(3) The tribunal may, pursuant to subsection (2), grant an extension before or after the prescribed time expires, whether the application for the extension is made before or after the prescribed time has expired.

(4) On the request of either party, the tribunal may adjourn a hearing from time to time if the tribunal is satisfied that it is necessary or desirable.

23 Dec 2005 cR-8.2 Reg 5 s10.

Conduct of hearings

11(1) An appeal to the tribunal shall be conducted as a hearing *de novo*.

(2) At a hearing, the appellant and the respondent have the right to appear before the tribunal and may, at their own expense, be represented by counsel.

(3) If the appellant or the respondent fails to attend a hearing, the tribunal may proceed with the hearing in the absence of the appellant or respondent.

(4) For the purposes of hearing an appeal pursuant to this section, the members of the tribunal have the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

23 Dec 2005 cR-8.2 Reg 5 s11; 21 Dec 2018 SR 96/2018 s4.

Evidence at hearings

12(1) At a hearing, the tribunal may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.

(2) The testimony of witnesses at a hearing is to be under oath or affirmation administered by any member of the tribunal.

23 Dec 2005 cR-8.2 Reg 5 s12.

Hearings in public

13(1) Subject to subsection (2), the tribunal shall conduct all hearings in public.

(2) The tribunal may exclude members of the public from any part of a hearing if the tribunal is of the opinion that evidence brought in the presence of the person or persons to be excluded would unduly violate the privacy of a person other than the appellant.

23 Dec 2005 cR-8.2 Reg 5 s13.

Decision of tribunal

14(1) Within 30 days after the completion of a hearing, the tribunal shall make a decision:

- (a) confirming the decision of the board;
- (b) varying the decision of the board; or
- (c) quashing the decision of the board and substituting its own decision for that of the board.

- (2) A decision of the tribunal must be in writing and must set out the reasons for the decision.
- (3) The chairperson of the tribunal shall cause a copy of the tribunal's decision to be served on each of the parties and on the minister.
- (4) Failure of the tribunal to comply with any requirement of these regulations as to time does not invalidate any decision made by the tribunal.

23 Dec 2005 cR-8.2 Reg 5 s14.

Appeal

- 15(1) A decision of the tribunal may be appealed to a judge of the Court of Queen's Bench on a question of law or jurisdiction within 30 days after the date of the tribunal's decision.
- (2) Subject to subsection (3), commencement of an appeal of a decision of the tribunal to a judge of the Court of Queen's Bench does not stay the decision that is the subject of the appeal.
- (3) A party to an appeal may apply to a judge of the Court of Queen's Bench for a stay of the decision that is the subject of the appeal.

21 Dec 2018 SR 96/2018 s5.

Service of documents

- 16(1) Any document that is required to be served or filed pursuant to these regulations may be served or filed personally or by registered mail.
- (2) Service of a document on the tribunal may be effected by service on the chairperson or the registrar.
- (3) Service of a document on a board may be effected by service on the chief executive officer of the board or, in the absence of the chief executive officer, on any other person employed in the head office of the board.
- (4) A document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later date.

23 Dec 2005 cR-8.2 Reg 5 s16.

Coming into force

- 17(1) Subject to subsection (2), these regulations come into force on the day on which section 45 of *The Regional Health Services Act* comes into force.
- (2) If section 45 of *The Regional Health Services Act* comes into force before these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

23 Dec 2005 cR-8.2 Reg 5 s17.