



COLLEGE OF
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OF ALBERTA

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APPEAL TO COUNCIL (CAC) INFORMATION SHEET

An Investigated Member or the Complaints Director, on behalf of the College, may commence an appeal to the council of the decision of the Hearing Tribunal. The Notice of Appeal must include reasons for the appeal.

Health Professions Act (HPA):

- 87(1)** An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that
- identifies the appealed decision, and
 - states the reasons for the appeal.

The Council Appeal Committee is a panel designated by the council, which includes two council members appointed by CLPNA's Council and one public member appointed by the Government of Alberta. One member of the panel is designated to act as Chair.

- 18(2)** A person or committee designated by a council may direct a panel of the council to carry out the powers and duties of the council with respect to a review under Part 2 and an appeal under Part 4 or section 118.

A Notice of Appeal must be given to the Hearings Director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.

- 87(2)** A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.

Once the Notice of Appeal is received by the Hearings Director, a date is selected for the appeal. The date must be within 45 days after the date the Notice of Appeal has been given to the Hearings Director if conditions have been imposed on the practice permit of the Investigated Member or, if the registration or practice permit of the Investigated Member has been suspended or cancelled. In all other cases, within 90 days after the Notice of Appeal has been received.

- 88(1)** A council must,
- if conditions have been imposed on the practice permit of the investigated person under section 82(1)(c)(i), (ii), (iii) or (iv) or if the registration or practice permit of the investigated person has been suspended or cancelled under section 82(1)(g) or (h), within 45 days after the date a notice of appeal has been given to the hearings director,
set the date for the appeal, and
 - in all other cases, within 90 days after the date a notice of appeal has been given to the hearings director, set the date for the appeal.

The Complaints Director and the Investigated Member may appear and be represented at the appeal before the council.

- 89(1)** The complaints director and the investigated person may appear and be represented by counsel at the appeal before the council.

The decision of the Hearing Tribunal remains in effect pending the appeal unless the Investigated Member makes a written application to the Council.

- 86(1)** A decision of the hearing tribunal remains in effect pending an appeal to the council unless the person or

committee designated by the council, on written application, stays the decision pending the appeal.

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

An Appeal to the Council must be based on the recording of the hearing and the decision of the Hearing Tribunal. The CAC, on hearing an application for leave to introduce new evidence, may direct the Hearing Tribunal that held the hearing to hear that evidence and to reconsider its decision and quash, confirm or vary the decision.

In addition to the Notice of Hearing which includes the date, time and place at which the CAC will hear the appeal, the Investigated Member, the Complaints Director, the Complainant, and the CAC Members are given a copy of the Notice of Appeal, a copy of the decision and record of the hearing.

- 87(3)** A hearings director must, on being given a notice of appeal,
- (a) give a copy of the notice of appeal, and make a copy of the decision and record of the hearing available, to each member of the council or of the panel of council hearing the appeal,
 - (b) ensure that the complaints director, the investigated person and the complainant are given a notice of the hearing of an appeal that states the date, time and place at which the council will hear the appeal, and
 - (c) ensure that the investigated person and the complaints director are given a copy of the record of the hearing.

DECISION

Within 90 days from the date of the conclusion of the appeal hearing, the CAC must make a decision.

- 89(5)** The council must, within 90 days from the date of the conclusion of the appeal hearing before it, make a decision and, by order, do one or more of the following:
- (a) make any finding that, in its opinion, should have been made by the hearing tribunal,
 - (b) quash, confirm or vary any finding or order of the hearing tribunal or substitute or make a finding or order of its own,
 - (c) refer the matter back to the hearing tribunal to receive additional evidence for further consideration in accordance with any direction that the council may make, or
 - (d) refer the matter to the hearings director to schedule it for rehearing before another hearing tribunal composed of persons who were not members of the hearing tribunal that heard the matter, to rehear the matter.

COSTS AND FEES

The CAC may direct the Investigated Member to pay expenses, costs and fees related to the appeal.

- 89(6)** Subject to any regulations under section 134(a), the council may direct the investigated person to pay, within the time set by the council, in addition to expenses, costs and fees referred to in section 82(1)(j), all or part of the expenses of, costs of and fees related to the appeal, including
- (a) legal expenses and legal fees for legal services provided to the college, complaints director and council,
 - (b) travelling expenses and a daily allowance, as determined by the council, for the complaints director and the members of the council who are not public members,
 - (c) the costs of creating a record of the proceedings and transcripts and of serving notices and documents, and
 - (d) any other expenses of the college directly attributable to the appeal.
- (7)** A fine or expenses ordered or directed to be paid under this section are a debt due to the college and may be recovered by the college by an action in debt.