



Discipline Committee Rules of Procedure

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RULE 1: INTERPRETATION

1.01 Definitions

1.01 In these Rules, unless the context requires otherwise,

“affiant” means a person who signs an affidavit and affirms or swears to its truth before a person authorized to take affirmations;

“chair” means the chair of the full Discipline Committee or his or her designate;

“Code” means the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991*;

“College” means the College of Kinesiologists of Ontario;

“counsel” means the lawyer or lawyers retained by or on behalf of a party;

“deliver” means to serve on every other party or in the case of a motion, motion participant, and “delivery” and “delivering” have corresponding meanings;

“Discipline Committee” means the Discipline Committee of the College, and includes a panel of the Discipline Committee, a chair and a presiding officer, where that individual is a member of the Discipline Committee;

“document” includes a sound recording, video tape, electronic media, paper writing and printing, file, photograph, chart, graph, plan, map, survey, book of account and information recorded or stored by means of any device;

“electronic”, with respect to a proceeding, means a proceeding held by video conference, telephone conference, or some other form of electronic technology, which allows persons to speak to and hear one another, and “electronically” has a corresponding meaning;

“hearing panel” means a panel of the Discipline Committee presiding over a proceeding;

“Hearings Office” means the employee or employees of the College who are specifically assigned the duty of providing administrative assistance to the Discipline Committee;

“holiday” means:

- (a) any Saturday or Sunday,
- (b) New Year’s Day,
- (c) Family Day
- (d) Good Friday,
- (e) Victoria Day
- (f) Canada Day

- (g) Civic Holiday,
- (h) Labour Day,
- (i) Thanksgiving Day,
- (j) Christmas Day,
- (k) Boxing Day,
- (l) any special holiday proclaimed by the Governor General or the Lieutenant Governor, and
- (m) any other day designated by the College as a holiday;

“independent legal counsel” means the lawyer or lawyers appointed by the Discipline Committee to provide advice in accordance with section 44 of the Code;

“lawyer” means a person licensed as a lawyer by the Law Society of Upper Canada;

“member” means a member of the College who is the subject of proceedings before the Discipline Committee and includes a former member;

“motion” is a request made to the Discipline Committee to make an order in a particular proceeding;

“motion participant” means a party and any other person who would be affected by the order sought;

“order” means any decision made by the Discipline Committee or the chair and includes a direction given by the Discipline Committee or the chair;

“panel chair” means the person chairing the hearing or the motion;

“party” means a party or parties under section 41 of the Code;

“presiding officer” means the person designated by the chair to preside over a pre-hearing conference and/or a case management conference;

“proceeding” means any step in the hearing process and includes a motion, a pre-hearing conference, a case management conference and the hearing itself;

“representative” means the person representing a party or participant in the proceeding who is not a lawyer and is used interchangeably with “counsel”;

“vulnerable witness” means a witness who, in the opinion of the Discipline Committee, will have difficulty testifying, or will have difficulty testifying in the presence of a party, for appropriate reasons.

1.02 Interpretation

- 1.02(1) These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding before the Discipline Committee.
- 1.02(2) Where matters are not provided for in these Rules they shall be determined by analogy to them, and in a manner consistent with them and consistent with the *Regulated Health Professions Act, 1991*, the Code, and/or the *Statutory Powers Procedure Act*.
- 1.02(3) Where a party or participant in the proceeding is not represented by a lawyer, anything these Rules permit or require a lawyer to do shall be done by the party, the participant or their representative, as the case may be.

1.03 Computation, Extension or Abridgment of Time

- 1.03(1) In the computation of time under these Rules or an order of the Discipline Committee, except where the contrary intention appears,
- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even where the words “at least” are used;
 - (b) where a period of less than seven (7) days is prescribed, holidays shall not be counted; and
 - (c) where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.
- 1.03(2) The Discipline Committee may extend or abridge any time prescribed by these Rules or by an order on such terms or conditions as the Discipline Committee considers just, either before or after the expiration of the prescribed time.

RULE 2: APPLICATION AND WAIVER OF RULES

2.01 Application of Rules

2.01 These Rules apply to all proceedings before the Discipline Committee of the College including, with all necessary modifications, to applications for reinstatement under sections 72 and 73 of the Code.

2.02 Initiation of Rules

2.02 The Discipline Committee may exercise any of its powers under these Rules at the request of a party, a motion participant, or on its own initiative.

2.03 Compliance and Waiver

2.03(1) A failure to comply with these Rules is an irregularity and does not render a proceeding or a step, document, or order in a proceeding a nullity.

2.03(2) Where the parties and/or motion participants consent to waiving compliance with a provision of these Rules, they may seek approval of the waiver from the Discipline Committee by filing a request, in writing, with the Hearings Office.

2.03(3) A party or motion participant who does not have the consent of the other party/motion participants to waive compliance with a provision of these Rules shall bring a motion to the Discipline Committee under Rule 5 requesting the waiver.

2.03(4) A motion requesting that compliance with a provision of these Rules be waived can be made before or after a failure to comply with these Rules has occurred.

2.03(5) The Discipline Committee may refuse to approve a request or grant an order waiving compliance with a provision of these Rules where a party or motion participant does not act on a timely basis or on any other ground.

2.03(6) The Discipline Committee may waive compliance with a provision of these Rules on its own initiative if it first gives notice to the parties and/or motion participants and provides an opportunity for submissions to be made.

2.04 Practice Directions

2.04 The Discipline Committee may issue general or specific practice directions at any time.

RULE 3: FORM, DELIVERY, AND FILING OF DOCUMENTS

3.01 Form of Documents

3.01 The first and last page of every document prepared for proceedings before the Discipline Committee shall, to the extent practical, be coloured as follows:

- (a) blue if prepared by counsel for the College;
- (b) white if prepared by the member or counsel for the member; and
- (c) green if prepared by any other person.

3.02 Delivery of Documents

3.02(1) Subject to subrule 3.02(2), delivery of documents is deemed to be effective when delivered:

- (a) by personal service on the date of service;
- (b) by regular, registered, or certified mail on the fifth day after the day of mailing to the last known address of the person;
- (c) by facsimile on the same day to the last known facsimile number of the person;
- (d) by email on the same day as the transmission to the last known email address of the person, where the email is not returned as undeliverable to the sender and where the last known email address of the person is an email address:
 - (i) registered with the College, where the person is a member; or
 - (ii) used by the person to send an email within the preceding four (4) months;
- (e) by courier, including Priority Post, to the last known address of the person, on the second full day after the document was given to the courier by the party sending the document; or
- (f) as directed by the Discipline Committee.

3.02(2) Documents delivered after 4:00 p.m. shall be deemed to have been delivered on the next day that is not a holiday.

3.03 Filing Documents with the Discipline Committee

3.03(1) All documents to be filed in a proceeding shall be filed with the Hearings Office, together with a statement of delivery, in accordance with Form 1, confirming that copies of the document(s) have been delivered, as required, on the other party/motion participants, except where they are filed in the course of the proceeding.

3.03(2) Documents may be filed with the Hearings Office in an envelope or, where filed by facsimile, with a cover sheet, clearly marked "Attention: Hearings Office" by:

- (a) leaving the documents with a person at the College's physical office;
 - (b) mailing or sending the documents by courier to the Hearings Office at the current mailing address for the College;
 - (c) sending one (1) copy of the document, if it is less than twenty (20) pages in length, by facsimile to the current facsimile number of the Hearings Office; or
 - (d) sending one (1) copy of the document by email to the current e-mail address of the Hearings Office and requesting and receiving a reply acknowledging receipt of the email.
- 3.03(3) The party filing a document shall, at the time of filing, provide the Hearings Office with eight (8) copies of the document (5 copies for the panel, 1 copy for the record of proceedings, 1 copy for independent legal counsel and 1 copy for the court reporter), unless it is filed by facsimile or email, in which case the party shall ensure that eight (8) copies of the document are delivered to the Hearings Office within twenty-four (24) hours of the time of filing.
- 3.03(4) A document shall not be considered filed until it is actually received by the Hearings Office.
- 3.03(5) A person can confirm whether a document has been received by the Hearings Office by telephoning or sending an email to the Hearings Office.

RULE 4: PRE-HEARING & CASE MANAGEMENT CONFERENCES

4.01 Pre-hearing and Case Management Conferences

- 4.01(1) The parties shall attend a pre-hearing conference, unless the chair directs otherwise, and shall be prepared to discuss all of the topics set out in the pre-hearing conference memorandum (Form 2A), including the following:
- (a) the strengths and weaknesses of each party's case;
 - (b) whether any facts can be agreed to;
 - (c) whether any or all of the issues can be settled or at least narrowed;
 - (d) the content and timing of any additional disclosure;
 - (e) the scheduling of any motions to be heard before the hearing;
 - (f) the appropriate Order in the event that findings of professional misconduct and/or incompetence are made;
 - (g) the delivery and form of documents, written arguments and books of authorities that will be used at the hearing and whether the Discipline Committee will review them before the hearing;
 - (h) the estimated length and scheduling of the hearing; and
 - (i) any other matter that may assist in the just and most expeditious disposition of the proceeding.
- 4.01(2) The chair may, on his or her own initiative or at the request of a party, direct the parties to attend a case management conference at any point after a matter has been referred for a discipline hearing.
- 4.01(3) Where a matter is scheduled to proceed as a contested hearing, the parties shall participate in a case management conference at least three weeks before the first day of the hearing to discuss how the hearing time will be used and any other matter that will facilitate the fair and efficient use of the hearing days.

4.02 Without Prejudice Basis

- 4.02 Pre-hearing conferences and case management conferences shall not be open to the public and, except for any orders, directions, undertakings and agreements made at a pre-hearing conference or a case management conference, shall proceed on a without prejudice, confidential basis unless the parties consent otherwise.

4.03 Scheduling

- 4.03 Pre-hearing conferences and case management conferences shall be scheduled by the Hearings Office.

4.04 Presiding Officer

- 4.04(1) The chair shall designate a member of the Discipline Committee or any other person to serve as the presiding officer at the pre-hearing conference and/or at the case management conference. The presiding officer designated by the chair may serve as the presiding officer at all pre-hearing conferences and case management conferences scheduled for the matter.
- 4.04(2) The presiding officer may give directions or, if the presiding officer is a member of the Discipline Committee, make any order(s) that he or she considers necessary or advisable with respect to the conduct of the proceeding.
- 4.04(3) The presiding officer and any member of the Discipline Committee who observes at a pre-hearing conference or case management conference shall not form part of the hearing panel, unless the parties consent.

4.05 In-Person and Electronic Conferences

- 4.05(1) Pre-hearing conferences shall be held in person unless the chair or the presiding officer directs that the pre-hearing conference shall be held electronically.
- 4.05(2) Case management conferences shall be held electronically unless the chair or presiding officer directs that the case management conference shall be held in person.

4.06 Pre-hearing Conference Memorandum

- 4.06 At least ten (10) days before the pre-hearing conference, each party shall deliver to the other party and file with the Hearings Office, a completed pre-hearing conference memorandum, in accordance with Form 2A.

4.07 Report of the Presiding Officer

- 4.07(1) Any orders, directions, undertakings and agreements made at a pre-hearing conference or a case-management conference shall be recorded in a report prepared by or under the direction of the presiding officer, in accordance with Form 2B, and a copy of the report shall be distributed to the parties.
- 4.07(2) If a party disagrees with the accuracy of the presiding officer's report, the party shall, within seven (7) days after receiving the report, deliver to the Hearings Office and the other party, written notice of the specific area of disagreement.
- 4.07(3) The party receiving written notice described in subrule 4.07(2) shall, within five (5) days, deliver any responding comments to the other party and to the Hearings Office, after which time the presiding officer may revise the report.

RULE 5: MOTIONS – GENERALLY

5.01 Initiating Motions

- 5.01(1) A person can initiate a motion by filing with the Hearings Office and delivering to the other party/motion participants a motion record, which shall include the notice of motion, in accordance with Form 3A, all affidavits and any materials to be relied upon, unless the nature of the motion or the circumstances make the motion record impractical.
- 5.01(2) All procedural or interlocutory issues shall be raised in a motion as soon as possible and shall be heard at least ten (10) days before the day upon which the hearing is scheduled to commence unless the nature of the motion requires that it be heard during the hearing itself.

5.02 Manner of Hearing Motions

- 5.02 A motion in a proceeding may be heard and determined by way of oral argument or in writing or electronically, in accordance with Rule 8.

5.03 Delivery and Filing of Motion Materials

- 5.03(1) The person initiating a motion, other than a motion in writing, shall file with the Hearings Office and deliver to the responding party/motion participants the motion record, at least fifteen (15) days before the date the motion is to be heard.
- 5.03(2) The responding party/motion participants shall file with the Hearings Office and deliver to the initiating party their materials in the form of a responding motion record at least nine (9) days before the date the motion is to be heard.
- 5.03(3) Where a party/motion participant intends to rely on a factum, written submissions and/or a book of authorities, those documents shall be filed with the Hearings Office and delivered, in the case of the person initiating the motion, at least seven (7) days before, and in the case of a responding party/motion participant, at least three (3) days before, the date the motion is to be heard.
- 5.03(4) Where a motion is to be held in writing, the responding party shall file with the Hearings Office and deliver to the initiating party their responding motion record within seven (7) days of receiving the motion record of the moving party and any party/motion participant intending to rely on a factum, written submissions and/or a book of authorities shall file and deliver those materials, in the case of the person initiating the motion, no more than four (4) days after and in the case of a responding party/motion participant, no more than eight (8) days after, the responding motion record was filed and delivered.

5.04 Assigning a Motion Panel and Scheduling Motion Dates

- 5.04(1) The chair, in accordance with subsection 4.2 of the *Statutory Powers Procedure Act*, shall assign one or more members of the Discipline Committee to hear each motion
- 5.04(2) A motion participant who believes that the hearing should not be heard by the member(s) of the Discipline Committee who sat on the motion panel shall request a direction from the motion panel on the matter in the notice of motion or notice of cross-motion.

5.04(3) Where a motion is to be heard in person, the Hearings Office will contact the participants to schedule a date for the motion after the person initiating motion has filed their motion record with the Hearings Office.

5.04(4) Where a motion is to be held in writing, the member(s) of the Discipline Committee assigned to decide the motion shall do so after all of the materials referred to in subrule 5.03(4) have been filed.

5.05 Evidence on Motions

5.05(1) Evidence on a motion shall be given by affidavit unless the Discipline Committee orders that it be given in some other form or unless otherwise provided by law.

5.05(2) All affidavits used on a motion shall:

(a) be confined to the statement of facts within the personal knowledge of the affiant, except that the affidavit may contain statements of the affiant's information and belief, if the source of the information and the fact of the belief are specified in the affidavit; and

(b) be signed by the affiant and sworn or affirmed before a person authorized to administer oaths or affirmations, which person shall also mark all exhibits as such to the affidavit.

5.05(3) A motion participant shall not cross-examine the affiant of an affidavit filed by another motion participant unless the parties consent or the Discipline Committee directs otherwise.

5.05(4) The Discipline Committee shall not direct that the deponent of an affidavit be cross-examined unless the interests of the case require it.

5.05(5) Subrules 5.05(3) and (4) do not prevent a deponent from being cross-examined on an affidavit during the hearing itself.

5.06 Draft Orders

5.06(1) Immediately after a motion has been determined, the person initiating the motion shall, and any other motion participant may:

(a) prepare a draft order, in accordance with Form 3B;

(b) seek written approval from the responding party and any other motion participants as to its form and content; and

(c) deliver the draft order together with any written approval(s) to the Hearings Office.

5.06(2) A draft order delivered in accordance with subrule 5.06(1) shall be treated as a submission and may be reviewed, amended if necessary, and signed by the panel chair.

5.06(3) This Rule does not apply to orders made on the record during the hearing.

5.07 Time Limits on Oral Submissions

5.07 No motion participant shall take more than one hour, including a reply, to make oral submissions on a motion without the prior permission of the Discipline Committee.

5.08 Communications with the Discipline Committee

5.08 Any communications to the Discipline Committee regarding a motion shall be in writing and copied to the other party and any motion participants.

RULE 6: MOTIONS – SPECIFIC MOTIONS

6.01 Motions for Adjournment

- 6.01(1) A party may request an adjournment of a hearing date(s) by filing with the Hearings Office and delivering to the other party, a Request for Adjournment, in accordance with Form 4.
- 6.01(2) If the hearing has not commenced, the chair may:
- (a) dispose of a written request for adjournment that is on consent or unopposed;
 - (b) hear and dispose of a request for adjournment that is opposed after hearing the parties by teleconference; or
 - (c) direct a hearing of the request by motion under Rule 5 before the chair, a motion panel or the hearing panel.
- 6.01(3) If the hearing has commenced, the panel chair may:
- (a) dispose of a written request for adjournment that is on consent or unopposed; or
 - (b) direct a hearing of the request by motion under Rule 5 before the hearing panel.

6.02 Motions for Non-Party Participation

- 6.02(1) A person who is not a party who wishes to participate in the hearing shall bring a motion under Rule 5.
- 6.02(2) The notice of motion shall set out the extent of participation the person proposes to have in the hearing.
- 6.02(3) If the Discipline Committee allows the person to participate in the hearing, these Rules shall apply to the person except where doing so would be inconsistent with the Discipline Committee's determination of the extent of the person's participation in the hearing.

6.03 Motions for Production of Documents in the Possession of a Third Party

- 6.03(1) A motion for the production of documents in the possession of a third party shall be brought in accordance with Rule 5 and shall be heard by the panel hearing the allegations against the member, after the notice of hearing has been filed as an exhibit and the member has entered a plea, but at least forty-five (45) days in advance of the hearing of evidence regarding the allegations set out in the notice of hearing.
- 6.03(2) A party seeking production of documents in the possession of a third party shall submit to the Hearings Office a Summons to Witness, in accordance with the form for summonses located on the Government of Ontario Central Forms Repository, for signature by the chair.
- 6.03(3) The Summons to Witness shall not require the production of any documents before the commencement of the hearing and shall be delivered at least forty-eight (48) hours before the time fixed for the hearing of the motion.

- 6.03(4) A party's motion record relating to the production of documents shall be delivered to the person in possession or control of the documents and to any other person having a significant interest, including a privacy interest, in the documents.
- 6.03(5) Affidavits of service confirming delivery of the Summons to Witness and the motion record, as described in subrules 6.03(3) and (4) shall be filed at the hearing of the motion.
- 6.04 Motion to Remove from Public Access Register Information Resulting from a Discipline Proceeding**
- 6.04(1) An application under subsection 23(11)(c) of the *Code*, to remove information contained in the register from public access pursuant to subsection 23(2)7 of the *Code*, shall be made by motion in accordance with Rule 5, and shall be heard and determined in writing by a panel of the Discipline Committee, unless the Discipline Committee orders otherwise.
- 6.04(2) The motion record shall include the decision and reasons of the Discipline Committee, which resulted in the information being posted in the register.
- 6.04(3) After a motion has been heard and determined by the Discipline Committee, a new application shall not be made for at least six months, unless there has been a material change in circumstances or new evidence has become available since the last application.
- 6.05 Motion to Vary an Order**
- 6.05(1) A person may make a motion to the Discipline Committee in accordance with Rule 5 to have an order varied, suspended, or cancelled on the grounds of facts arising or discovered after the order was made and the Discipline Committee may vary, suspend or cancel the order when it deems such action appropriate.
- 6.05(2) A motion to vary, suspend or cancel and order does not act as a stay of the original order.

RULE 7: DISCLOSURE

7.01 Reciprocal Disclosure

- 7.01 Subject to Rule 10.05 and any other statutory requirements related to disclosure, a party to a hearing shall, at least ten (10) days before the hearing,
- (a) disclose to the other party the existence of every document and thing that the party will refer to or give in evidence at the hearing; and/or
 - (b) produce to the other party a witness statement for any witness to be called by that party, or for any witness where a statement does not exist, a summary of the evidence that the witness will give at the hearing, including in either case, the name and contact information for the witness, the substance of the evidence of the witness and any document that the witness will refer to.

7.02 Inspection and Delivery of Documents

- 7.02 Subject to Rule 10.05 and any other statutory requirements related to disclosure, each party to a hearing shall, if requested:
- (a) make available for inspection by the other party, at least ten (10) days before the hearing, all documents and things the party will produce or enter as evidence at the hearing; and
 - (b) deliver to the other party, at least ten (10) days before the hearing, copies of all documents and things that the party will produce or enter as exhibits at the hearing.

7.03 Failure to Comply

- 7.03 If a party fails to comply with Rule 7.01 or 7.02, the party may not refer to or enter into evidence at the hearing, the document or the evidence of the witness, as the case may be, without the consent of the Discipline Committee, which may be given on such terms and conditions as the Discipline Committee considers just.

7.04 Evidence Protected from Disclosure

- 7.04 Despite anything in these Rules, a party or participant in the proceedings is not required to disclose or produce any document or evidence that is privileged or otherwise protected from disclosure by law.

7.05 Limited Use of Disclosure

- 7.05 Any person who receives disclosure in a proceeding, shall only use the disclosure for the purpose of the proceeding and for no other purpose.
- 7.05(1) Any person who receives disclosure in a proceeding shall advise any person to whom that disclosure is provided that they may only use the disclosure for the purpose of the proceeding and for no other purpose.

RULE 8: WRITTEN/ELECTRONIC PROCEEDINGS

8.01 Request for a Written or Electronic Proceeding

- 8.01(1) Subject to sections 5.1 and 5.2 of the *Statutory Powers Procedure Act*, the Discipline Committee may order that a hearing, part of a hearing, or a step in the proceeding be held in writing or electronically and may hold any combination of written, electronic and oral hearings, provided that the obligation to hold the hearing in public can be met.
- 8.01(2) A person requesting that a hearing, part of a hearing, or a step in the proceeding be conducted in writing or electronically shall file with the Hearings Office and deliver to the other party and, where applicable, any motion participant a Request for a Written or Electronic Proceeding, in accordance with Form 5.
- 8.01(3) Before making an order under subrule 8.01(1), the Discipline Committee shall provide the parties and, where applicable, any motion participants with an opportunity to make submissions on the issue.
- 8.01(4) The Discipline Committee shall not hold a hearing, part of a hearing, or a step in the proceeding in writing or electronically if it is satisfied that doing so would be likely to cause a party and/or any motion participant significant prejudice.
- 8.01(5) Subrule 8.01(4) does not apply if the only purpose of the hearing, part of a hearing, or a step in the proceeding is to deal with procedural matters.

8.02 Procedure on Written or Electronic Proceeding

- 8.02(1) Where all or part of a proceeding is conducted in writing or electronically, every party and, where applicable, any motion participant is entitled to receive every document that the Discipline Committee receives.
- 8.02(2) Every party and, where applicable, any motion participant shall deliver to every other party and/or motion participant, every document, in sequentially numbered pages, and or any recording(s) that he or she intends to rely upon at least three (3) days before the proceeding.
- 8.02(3) Where all or part of a proceeding is conducted by teleconference, every person participating in the teleconference shall ensure that he or she can be reached at the telephone number provided to the Hearings Office five (5) minutes before the proceeding is scheduled to commence.

RULE 9: TAKING EVIDENCE BEFORE THE HEARING

9.01 Initiating the Taking of Evidence Before the Hearing

- 9.01(1) A party who intends to introduce the evidence of a person at the hearing and who has made all the required disclosure with respect to the evidence of that witness may, with the consent of the other party or by order of the Discipline Committee, examine the witness on oath or affirmation for the purpose of having the transcript and video recording of the witness's testimony available to be tendered as evidence at the hearing.
- 9.01(2) The Discipline Committee may make an order under 9.01(1) if it is satisfied that the order would not cause significant prejudice to a party and would not prevent the Panel from fully and fairly understanding the evidence.

9.02 Requirement to Record the Examination

- 9.02(1) The party who intends to introduce the evidence of the witness shall ensure that the examination is video-recorded and that a transcript of the examination is created, at the party's expense, by a certified court reporter or a person with similar qualifications acceptable to the Discipline Committee, and shall file with the Hearings Office and deliver to the other party a certified copy of the transcript and video recording of the evidence at least three (3) days before the hearing is scheduled to commence.
- 9.02(2) The examination shall take place at the date, time and place consented to by the parties or ordered by the Discipline Committee.
- 9.02(3) The Discipline Committee may impose terms or conditions in the order for an examination including a term that the party intending to call the witness shall pay for the reasonable travel expenses of the other party.

9.03 Procedure at the Examination

- 9.03(1) A witness examined under subrule 9.01(1) may, after being affirmed by a person authorized to do so, be examined, cross-examined and re-examined in the same manner as a witness at a hearing.
- 9.03(2) Where a question is objected to, the objector shall state briefly the reason for the objection, and the question, objection and reason for the objection shall be recorded.
- 9.03(3) The party objecting to a question may, after the objection, permit the question to be answered subject to a ruling being obtained from the Hearing Panel before the evidence is used at a hearing.
- 9.03(4) A ruling on the propriety of a question that is objected to and not answered may be obtained on motion to the Hearing Panel.
- 9.03(5) Where the question is not answered under subrule 9.03(3) and the objection is found not to be valid, the person who objected shall ensure that the witness is produced at the expense of the person who objected for another examination before the hearing or at the hearing to answer the question.

9.03(6) Any document used during the examination that is intended to be filed as an exhibit at the hearing shall be marked at the examination by the person introducing it so it can be identified later and the person introducing it shall deliver a copy of it to the other party.

9.04 Use of Recorded Examination at the Hearing

9.04(1) At the hearing, any party may use the transcript and video-recording of an examination as the evidence of the witness unless the Hearing Panel orders otherwise.

9.04(2) A witness who has been examined under this rule shall not be called to give evidence at the hearing except on the order of or at the request of the Hearing Panel.

9.04(3) Where a witness is ordered or requested to give evidence at the hearing under subrule 9.04(2), the party who tendered the evidence under subrule 9.04(1) shall arrange for the witness to attend at the party's expense.

9.04(4) The transcript and any video-recording need not be read or played during the hearing with the parties present unless a party or the Hearing Panel requires the reading of a transcript or the playing of a video-recording.

9.04(5) Where the reading of a transcript or the playing of a video-recording is required under subrule 9.04(4), the party who initiated the examination under subrule 9.01(1) shall conduct the reading or playing during the presentation of that party's case unless the Hearing Panel orders otherwise.

RULE 10: PROCEDURES DURING/RELATED TO THE HEARING

10.01 Early Hearing

10.01 A party may bring a motion under Rule 5 for an order directing an expedited hearing and/or pre-hearing conference or the Discipline Committee may, on its own initiative, order that a hearing and/or pre-hearing conference be expedited, where it believes it is appropriate.

10.02 Notice of Constitutional Questions

10.02(1) Where a party intends to:

- (a) question the constitutional validity or applicability of legislation, a regulation or bylaw made under legislation, or a rule of common law; or
- (b) seek a remedy under section 24(1) of the *Canadian Charter of Rights and Freedoms*,

the party shall deliver to the Attorneys General of Canada and Ontario, the other party and the Discipline Committee, notice of a constitutional question in the form required by the *Courts of Justice Act* as soon as the circumstances requiring notice become known and, in any event, at least fifteen (15) days before the question is to be argued.

10.02(2) The Attorneys General or a party responding to a notice of a constitutional question shall file with the Hearings Office and deliver to the other party, any responding materials at least five (5) days before the question is to be argued.

10.02(3) Where the Attorneys General of Canada and Ontario are entitled to notice, they are entitled to:

- (a) adduce evidence and make submissions to the Discipline Committee regarding the constitutional question; and
- (b) notice of any appeal in respect of the constitutional question.

10.03 Summoning Witnesses

10.03(1) A party who requires the attendance of a witness at a hearing shall submit to the Hearings Office a Summons to Witness, which shall be in accordance with the form for summonses located on the Government of Ontario Central Forms Repository, for signature by the chair.

10.03(2) A Summons to Witness shall be served personally on the person to whom it is directed at least forty-eight (48) hours before the time fixed for the attendance.

10.04 Vulnerable Witnesses

10.04(1) The Discipline Committee may order that a support person be permitted to be present and to sit near a vulnerable witness while testifying and may issue directions regarding the conduct of the support person during the testimony of the witness.

10.04(2) The Discipline Committee may order that a vulnerable witness testify outside the hearing room or behind a screen or other device that would allow the vulnerable witness not to

see the member if the Discipline Committee is of the opinion that the exclusion is necessary to obtain a full and candid account of the matter.

- 10.04(3) The Discipline Committee shall not make an order under subrule 10.04(2) unless arrangements are made for the member, the Discipline Committee, and counsel for the parties to watch the testimony of the vulnerable witness by means of closed-circuit television or otherwise and the member is permitted to communicate with counsel while watching the testimony.
- 10.04(4) The Discipline Committee may order that a member not personally conduct the cross-examination of a vulnerable witness if the Discipline Committee is of the opinion that the order is necessary to obtain a full and candid account of the vulnerable witness's testimony.
- 10.04(5) Where the Discipline Committee makes an order under subrule 10.04(4), it may appoint counsel for the purpose of conducting the cross-examination.

10.05 Expert Witnesses

- 10.05(1) Each party shall inform any prospective expert witness that it is the duty of an expert to assist the Discipline Committee on matters within his or her expertise and that this duty overrides any obligation to the person from whom he or she has received instructions or payment. The expert shall be required to certify that he or she is aware of and understands this duty by signing an Acknowledgment of Duty of Expert Witness, in accordance with Form 6, which shall be included in any expert report or written summary of the expert's evidence.
- 10.05(2) Where the Discipline Committee hears testimony from an expert witness, it may admit as an exhibit at the hearing the report of the expert witness or a written summary of the expert's evidence.
- 10.05(3) Where the Discipline Committee hears testimony from an expert witness, but does not admit the expert's report or a written summary of the expert's evidence as an exhibit at the hearing, the party tendering the expert witness shall file Form 6, signed by the expert, as an exhibit.
- 10.05(4) Subject to Rule 7.04, the College shall deliver to the member any expert report or written summary of an expert's evidence it has in its possession at the time of making disclosure and shall deliver any other expert report it obtains within fifteen (15) days of receiving it, but in any event, at least sixty (60) days before the commencement of the hearing.
- 10.05(5) The member shall deliver any expert report or, if there is no written report, a written summary of the expert's evidence it intends to rely on, at least thirty (30) days before the commencement of the hearing.
- 10.05(6) The last day for delivery of a responding expert report or a written summary of the expert's responding evidence by a party shall be fifteen (15) days before the commencement of the hearing.
- 10.05(7) The Discipline Committee may extend or abridge the time provided for delivery of an expert report or written summary of the expert's evidence before or after the expiration of the time, and may make directions it considers just to ensure that a party is not prejudiced by any extension or abridgment of time ordered.

10.06 Excluding Witnesses

- 10.06(1) The Discipline Committee may order that one or more witnesses be excluded from the hearing until called to give evidence.
- 10.06(2) An order under subrule 10.06(1) may not be made in respect of a party to the proceeding or a witness whose presence is required to instruct counsel, but the Discipline Committee may require any such witness to give evidence before the other witnesses are called to give evidence on behalf of that party.
- 10.06(3) Where an order is made excluding one or more witnesses from the hearing, no person shall communicate or permit the communication to an excluded witness of any evidence given during the witness' absence from the hearing until after the witness has been called and has given evidence.

10.07 Oral and Written Argument

- 10.07(1) The Discipline Committee may place reasonable limits on the length of oral submissions.
- 10.07(2) The Discipline Committee may, after hearing submissions, order the parties to submit written arguments on some or all of the issues at the hearing and may give directions as to the form and timing of such written arguments.

10.08 Filing Draft Order

- 10.08(1) Where a party seeks an order from the Discipline Committee before or at a hearing, that party shall file, at the time of its submissions, a draft order in the form that the party is requesting the Discipline Committee to adopt and sign.
- 10.08(2) Where an order is sought on consent, the written approval of the other party to the draft order shall be filed with the draft order.

10.09 Withdrawing Allegations

- 10.09(1) Where the College wishes to withdraw all or some of the allegations in a Notice of Hearing, it shall request leave from the Discipline Committee to withdraw the allegations and shall provide the Discipline Committee with reasons for the request.
- 10.09(2) A request for leave to withdraw all or some of the allegations in a Notice of Hearing can be brought in the form of a motion under Rule 5 or, where the request is made during a hearing, the request can be made orally.
- 10.09(3) Where the College requests leave to withdraw all or some of the allegations in a Notice of Hearing during a hearing and the Discipline Committee grants the request, the exhibited copy of the Notice of Hearing shall indicate which of the allegations was withdrawn.

10.10 Access to Hearing Record

- 10.10(1) A member of the public may request a copy of the notice of hearing, agreed statement of facts, joint submission on order or the transcript of the evidence by writing to the Hearings Office and paying any prescribed fee, unless an order has been made under section 45 of the Code to close the hearing or to prevent public disclosure of matters other than the name or identity of patients.

- 10.10(2) A member of the public who wishes to have access to an exhibit(s) filed at a hearing, or any record referred to in subrule 10.10(1) that is the subject of an order under section 45 of the *Code*, other than an order banning the publication of the name or identity of any patients, shall bring a motion before the Discipline Committee under Rule 5, upon written notice to the parties and any person having a proprietary or privacy interest in the exhibit or record, and such motion shall be made, considered, and decided in writing by the chair or by a panel of the Discipline Committee appointed by the chair, without an oral hearing.
- 10.10(3) The Discipline Committee may impose whatever terms it considers just and appropriate regarding access to an exhibit or record, any redactions that should be made to an exhibit or record prior to its release, and the uses that may be made of an exhibit or record.
- 10.10(4) Documents released by the Discipline Committee to the public shall not contain the names of patients or any information that could identify the patient.

RULE 11: COSTS

11.01 Procedure for Requesting Costs

- 11.01(1) A party requesting an order for costs and/or expenses other than on consent shall, where practicable, deliver a detailed written explanation of the basis upon which the costs and/or expenses requested are calculated.
- 11.01(2) Where the request for costs and/or expenses includes disbursements or out-of-pocket expenses, these may be proved by an affidavit attaching a copy of any invoice or receipt.
- 11.01(3) The Discipline Committee may direct that the issue of costs, including how costs and/or expenses should be calculated, be dealt with at a motion conducted separately from the hearing under Rule 5 with any necessary modifications.

11.02 Costs for Non-Compliance with Rules

- 11.02 Where the Discipline Committee is entitled to order the payment of costs and/or expenses by a party, the Discipline Committee may consider the failure of that party to comply with these Rules where the conduct or course of conduct that led to the non-compliance was unreasonable, frivolous or vexatious or the party acted in bad faith.

11.03 Costs for a Late Request for Adjournment

- 11.03(1) In this Rule, a late request for adjournment means an adjournment that is requested within ten (10) days of the date scheduled for the commencement of the hearing.
- 11.03(2) A late request for an adjournment may result in costs and/or expenses being awarded contingently, as a term of granting the adjournment, against the party who is responsible for the late request for the adjournment,
- (a) if the conduct of the party has been unreasonable, frivolous, or vexatious or if the party has acted in bad faith; and
 - (b) on condition that the Discipline Committee is entitled to order the payment of costs and/or expenses against that party at the completion of the proceedings.
- 11.03(3) In determining the amount of costs and/or expenses to award against the party responsible for a late request for an adjournment, the Discipline Committee may take into account the following factors, among other relevant considerations:
- (a) whether the lateness of the adjournment request could have been avoided;
 - (b) the number of days on which the hearing has been scheduled to proceed;
 - (c) the amount of the costs and/or expenses borne by the party seeking costs and/or expenses as a result of the late request for adjournment; and/or
 - (d) the conduct or course of conduct by the party and whether this has been unreasonable, frivolous or vexatious or the party has acted in bad faith.

11.04 Costs for Electronic Proceedings

11.04 Where all or part of a proceeding has been conducted electronically at the member's request and the hearing results in a finding of professional misconduct and/or incompetence, the Discipline Committee may order that the member pay all or part of the College's reasonable costs and expenses associated with holding the proceeding electronically.

RULE 12: DECISIONS AND REASONS

12.01 Delivery Methods

12.01 In addition to the methods described in section 18 of the *Statutory Powers Procedure Act*, the Discipline Committee may send each party a copy of its final decision or order, including any written reasons, by:

- (a) courier
- (b) personal service
- (c) facsimile; or
- (d) email

12.02 Deemed Receipt

12.02(1) If a copy is sent by courier, it shall be sent to the most recent address known to the College and shall be deemed to be received by the party on the second full day after the document was given to the courier by the Hearings Office.

12.02(2) If a copy is sent by facsimile or by email, it shall be sent to the most recent facsimile number or email address known to the College and shall be deemed to be received by the party:

- (a) on the day the facsimile or email was sent, where the facsimile or email was sent before 4:00 p.m.; or
- (b) on the day after the facsimile or email was sent, where the facsimile or email was sent after 4:00 p.m.

12.03 Correction of Errors

12.03(1) A party may, within thirty (30) days after receiving a copy of the Discipline Committee's decision, order and/or written reasons, request the Discipline Committee to correct any typographical, formatting, calculation, or similar errors by making such request, in writing, copied to the other party.

12.03(2) The Discipline Committee may, on its own initiative and at any time, correct any typographical, formatting, calculation, or similar errors made in its decision, order and/or written reasons.

12.03(3) Where the Discipline Committee makes a correction on its own initiative, it shall advise the parties.

RULE 13: REINSTATEMENT APPLICATIONS

13.01 Initiating a Reinstatement Application

13.01 A person making an application for reinstatement under sections 72 and 73 of the Code shall deliver to the Registrar ten (10) copies of the following:

- (a) notice of the application in the form prescribed by the Registrar, specifying:
 - (i) the order sought;
 - (ii) the grounds of the application and, where requested by the Registrar:
 - A) a declaration of good conduct in a form acceptable to the Registrar; and
 - B) a statement, in a form acceptable to the Registrar, of every location where the person has practised kinesiology during the previous thirty-six (36) months and the number of hours the person has practised kinesiology at each location;
 - (iii) an estimate of the anticipated length of the hearing;
- (b) the record of the original hearing and the record of any previous applications for reinstatement, where requested;
- (c) the transcript of the original hearing and any previous applications for reinstatement, where requested; and
- (d) any documentary and a summary of any oral evidence that the person will introduce.

13.02 Scheduling a Reinstatement Hearing

13.02(1) The Discipline Committee shall not schedule a reinstatement application for a hearing until the person making the application has complied with subrule 13.01.

13.02(2) When a reinstatement application has been scheduled for a hearing, the Discipline Committee shall deliver a notice of hearing to the parties.

FORM 1 – STATEMENT OF DELIVERY

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

**STATEMENT OF DELIVERY
OF [THE COLLEGE OR MEMBER'S NAME]**

I, _____, confirm that the following document(s) (describe each of the documents delivered e.g., Motion Record, Factum, Book of Authorities, etc);

1. _____
2. _____
3. _____
4. _____
5. _____

were delivered to (indicate the name of the individual(s) to whom the documents were addressed and their coordinates);

1. _____
2. _____
3. _____
4. _____
5. _____

via (check the applicable method of delivery):

- personal service
- regular, registered or certified mail (indicate which one)_____
- facsimile
- email
- courier
- as directed by the Discipline Committee
- other method of delivery (specify)_____

on (indicate the date you send the documents):

Date (dd/mm/yyyy) _____

Date Signed

Signature

FORM 2A – PRE-HEARING CONFERENCE MEMORANDUM

**Discipline Committee of the
College of Kinesiologists of Ontario**

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

**PRE-HEARING CONFERENCE MEMORANDUM
OF [THE COLLEGE OR MEMBER'S NAME]**

Date of pre-hearing conference:

Name of College Counsel:

Name of Member's Counsel (if applicable):

BACKGROUND INFORMATION

1. Set out the allegations or attach a copy of the notice of hearing or statement of allegations to this memorandum.
2. Set out a brief statement of the theory of the prosecution's case as you understand it, including factual contentions.
3. Set out a brief statement of the theory of the member's case as you understand it, including factual contentions.
4. Provide a description of the legal issues to be determined at the hearing.
5. Attach a copy of any document that would assist the pre-hearing conference to be more effective.

SETTLEMENT AND AGREEMENTS

6. What are the prospects for settlement?
7. Have counsel discussed the matter and sought instructions?
8. How/on what terms should this matter be settled?
9. Set out the facts, in numbered paragraphs, that you believe should be agreed to.
10. Set out a numbered list of the documents you believe should be admitted into evidence on agreement, as part of a joint brief of documents.

ADDITIONAL STEPS BEFORE THE HEARING

11. On the subject of disclosure:
 - a) Has the prosecution made full disclosure to the member?
 - b) Has the member made disclosure to the prosecution in accordance with the Discipline Committee's Rules of Procedure?
 - c) Are there any issues with respect to disclosure?
 - d) Have you produced all of the expert reports upon which you intend to rely?
 - e) If you have not yet made all required disclosure, why not and by what date will it be done?
12. On the subject of motions:
 - a) Do you anticipate bringing any motions before or during the hearing?
 - b) If so, what order will you seek and on what grounds?
 - c) When do you intend to bring each motion?
13. On the subject of a documents brief:
 - a) Set out a numbered list of the documents you expect to enter into evidence.
 - b) If there is to be a joint book of documents, should the hearing panel be able to review the brief before the hearing?
 - c) If so, by what date can the brief be delivered?

14. On the subject of a book of authorities:

- a) Will you be referring to any authorities other than the *Regulated Health Professions Act, 1991*, the *Statutory Powers Procedure Act*, the *Kinesiology Act, 2007* and the regulations under those statutes? If so, list them.
- b) If so, who should prepare the book of authorities and when should it be delivered?
- c) Should the hearing panel and/or independent legal counsel be able to review the book of authorities before the hearing?

PLANNING THE HEARING

15. On the subject of witnesses:

- a) In numbered paragraphs, list your fact witnesses in the order that you expect to call them and estimate the length of time it will take to hear their entire evidence, including cross-examination and questions from the hearing panel:

Number	Witness Name	Estimated Time
(i)		
(ii)		

- b) It is the preference of the Discipline Committee to identify any potential conflicts of interest and/or circumstances giving rise to a reasonable apprehension of bias at the earliest possible opportunity. Is there any reason why the witness list cannot be circulated to the hearing panel?
- c) Do you anticipate calling any expert witnesses?
- d) If so, have you disclosed a copy of the expert's report to the other side?

16. On the subject of scheduling the hearing:

- a) Are there any special considerations affecting the setting of a hearing date arising from the availability of witnesses or otherwise?
- b) Estimate how many days will be required for your case in total:
 - (i) How long will it take you to make your opening and closing submissions on the issue of finding?
 - (ii) How long will it take to dispose of any motions you anticipate bringing during the hearing, including adequate time for deliberation by the hearing panel?
 - (iii) How long will it take to hear the evidence of all of your anticipated fact witnesses, including any cross-examination and questions from the hearing panel?

- (iv) How long will it take to hear the evidence of all of your anticipated expert witness(es), including any cross-examination and questions from the hearing panel?
 - (v) In the event that the hearing panel makes a finding, how long do you anticipate requiring for any submissions and evidence on the issue of what order the hearing panel should make?
- c) When will you be prepared for the hearing to commence?

[Date] [Signature of most responsible counsel who will be attending at the hearing]

FORM 2B –REPORT OF THE PRESIDING OFFICER

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

REPORT OF THE PRESIDING OFFICER

A [pre-hearing/case management] conference was held in this matter on [date].

In attendance were:

[list each attendee and his or her capacity]

Agreements

The parties agreed to the following:

1. On the subject of settlement:
2. On the subject of disclosure:
3. On the subject of motions:
4. On the subject of a documents brief:
5. On the subject of a brief of authorities:
6. On the subject of witnesses:
7. On the subject of scheduling the hearing:
8. Other:

Undertakings

The [College/Counsel for the College or member/Counsel for the Member] provided the following undertaking(s) at the [pre-hearing/case management] conference:

Directions or Orders

The Presiding Officer gave the following direction(s) and/or made the following order(s) at the [pre-hearing/case management] conference:

Date: Signature of the Presiding Officer:

FORM 3A – NOTICE OF MOTION

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

NOTICE OF MOTION

THE [NAME OF PERSON/PARTY INITIATING THE MOTION] WILL make a motion to the Discipline Committee of the College of Kinesiologists of Ontario on [day], [date], at [time], or as soon after that time as the motion can be heard, at 160 Bloor Street East, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING THE MOTION IS:

in person in writing

THE ANTICIPATED AMOUNT OF TIME REQUIRED TO HEAR THE MOTION IS:

30 minutes or less	<input type="checkbox"/>	half day	<input type="checkbox"/>
60 minutes or less	<input type="checkbox"/>	full day	<input type="checkbox"/>
60 to 90 minutes	<input type="checkbox"/>	_____ days	<input type="checkbox"/>
90 to 120 minutes	<input type="checkbox"/>	N/A (in writing)	<input type="checkbox"/>

THE MOTION IS FOR:

1. [set out, in separately numbered paragraphs, the precise relief sought]
- 2.

THE GROUNDS FOR THE MOTION ARE:

1. [set out, in separately numbered paragraphs, each of the grounds to be argued, including a reference to any statutory provision or rule to be relied upon]
- 2.
- 3.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE MOTION:

1. [list, in separately numbered paragraphs, any affidavit(s) and/or other documentary evidence to be relied upon]
- 2.
- 3.

Date: [Today's date]

[Name,
Address, and
telephone number
of the moving party or, if the moving
party is represented, the moving
party's
representative.]

TO: [Name,
Address, and
telephone number
of the responding party or, if the
responding party is represented,
the responding party's representative.]

FORM 3B – DRAFT ORDER

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

ORDER

THIS MOTION, made by [identify the party/person initiating the motion] for [state the relief sought in the notice of motion, except to the extent that it appears in the operative part of the order], was heard on [date], [at the College of Kinesiologists of Ontario, 160 Bloor Street East, Toronto, Ontario OR in writing OR by conference call].

ON READING the [set out the materials filed on the motion] and on [hearing OR reading] the submissions of counsel for [identify motion participants and indicate where a party appeared in person or where no one appeared for a party],

THE DISCIPLINE COMMITTEE ORDERS:

1. that...;
2. that...; and
3. that...

DATED at Toronto, this [day] of [month], [year].

[Chair Name], Chair of Discipline Committee Panel

FORM 4 – REQUEST FOR ADJOURNMENT

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

REQUEST FOR ADJOURNMENT

1. A request for adjournment is being made by:

the College the Member jointly, by both parties

2. The hearing has:

commenced, and has been scheduled as follows:

 dates heard: _____

 dates remaining: _____

OR

not commenced and is scheduled for the following date(s):

3. The reason for the request is:

4. The nature of the allegations against the Member are (or attach a copy of the Notice of Hearing):

5. If the request is not being made jointly, confirm that the other party has been advised that this request is being made and set out their position on the request:

6. Provide at least six alternative dates or sets of dates, as the case may be, that the parties are available for the matter to proceed, which fall within 60 days of the date(s) requested to be adjourned:

Date: [Today's date]

[Name,
Address, and
telephone and facsimile number
of the requesting party or their
representative]

Signature of requesting party:_____

By signing this request for adjournment, the person identified above confirms that s/he has delivered a copy of this form to the party(ies) set out below and that the information contained in this form is accurate.

TO: [Name,
Address, and
telephone and facsimile number
of the responding party or their
representative]

- The [Chair/chair of the Panel] is granting this request for adjournment on the following terms, if any:

- The Chair/chair of the Panel is not granting this written request for adjournment.

AND, where applicable, the Chair is directing that the request for adjournment be heard and disposed of by way of:

- teleconference
- motion under Rule 5 before the [Chair/hearing panel], or
- other

Date: Signature of Chair/chair of the panel:

FORM 5 – REQUEST FOR A WRITTEN OR ELECTRONIC PROCEEDING

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

REQUEST FOR A WRITTEN OR ELECTRONIC PROCEEDING

THE [NAME OF MOVING PARTY] is requesting that the hearing, part of the hearing or a step in the proceedings be conducted in writing and/or electronically.

SPECIFICALLY, [NAME OF MOVING PARTY] is requesting that:

- the pre-hearing be conducted electronically;
- the hearing be conducted electronically;
- a step in the proceedings be conducted electronically;
- a step in the proceedings be conducted in writing;
- other_____

THE DETAILS OF THE REQUEST are as follows:

1. Clarify the nature of the proceeding/step(s) identified above and indicate any dates that have been scheduled:

2. The purpose of the proceeding/step identified above is to:

deal with a procedural matter(s)

OR

as follows:

3. Indicate whether the request is for teleconferencing or videoconferencing and explain why:

Date: [Today's date]

[Name,
Address, and
telephone and facsimile number
of the requesting party or their
representative].

Signature of requesting party: _____

By signing this Request for a Written/Electronic Proceeding, the person identified above confirms that he or she has delivered a copy of this form to the party or parties set out below and that the information contained in this form is accurate.

TO: [Name,
Address, and
telephone and facsimile number

of the responding party or their representative].

FORM 6 – ACKNOWLEDGEMENT OF DUTY OF EXPERT WITNESS

Discipline Committee of the
College of Kinesiologists of Ontario

IN THE MATTER OF the *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER OF the *Kinesiology Act, 2007*, S.O. 2007, c.10, as amended, and the regulations thereunder, as amended;

AND IN THE MATTER of allegations of professional misconduct/incompetence referred by the Inquiries, Complaints and Reports Committee to the Discipline Committee of the College of Kinesiologists of Ontario regarding **[NAME OF MEMBER]**.

ACKNOWLEDGEMENT OF DUTY OF EXPERT WITNESS

I, _____ [Name of Expert] _____, of the city of _____ [Name of City where expert resides] _____ in the province of _____ [Name of Province] _____, have been engaged by or on behalf of [Name of Party] _____, to provide evidence in relation to a discipline proceeding regarding the above-noted member.

I acknowledge and agree that it is my duty to:

- (a) provide opinion evidence that is fair, objective and non-partisan;
- (b) provide opinion evidence related only to matters that are within my area of expertise; and
- (c) provide such assistance as the hearing panel may reasonably require to determine a matter at issue.

I acknowledge and agree that the duty referred to above prevails over any obligation I may owe to any party by whom or on whose behalf I have been engaged.

Date: _____ Signature of Expert _____

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