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FORMS: AVAILABLE UPON REQUEST FROM THE BOARD
INTRODUCTION

The Physician Payment Review Board ("PPRB" or "Board") is established and conducts hearings pursuant to specific provisions of the Health Insurance Act. The Physician Payment Review Board holds hearings on payment matters that cannot be resolved between the General Manager of the Ontario Health Insurance Plan ("OHIP") and a physician through the provision of education and other assistance.

Administrative services are provided to the PPRB by the Health Boards Secretariat. Enquiries concerning the Board’s practices, requests for copies of Rules, Forms or Decisions may be made to the Registrar at the address and telephone numbers below.

Correspondence to the PPRB should be addressed to:

The Registrar
Physician Payment Review Board
Health Boards Secretariat

151 Bloor St. W., 9th Floor
Toronto ON M5S 2T5

Phone number: 416-327-8512
Toll Free: 1-866-282-2179
Fax number: 416-327-8524

The PHYSICIAN PAYMENT REVIEW BOARD is an independent quasi-judicial tribunal. The Board’s proceedings are public unless the Board orders otherwise.

The Board:

- is not an investigative body;
- does not administer the OHIP benefit programme; and,
- does not have access to any files or records of OHIP or the Ministry of Health and Long-term Care, or other agencies.

Parties to the Board’s proceedings should forward to the Board, all information, documents and things which the party wishes the Board to consider in deciding the matters at issue.

Pursuant to section 25.1 of the Statutory Powers Procedure Act, the Board adopts the following Rules of Practice and Procedure which shall be known as The Physician Payment Review Board Interim Rules of Practice and Procedure ("Interim Rules"). The Interim Rules shall take effect on January 17, 2011.

The Rules relating to Pre-hearing Conferences have been made pursuant to section 5.3(1) of the Statutory Powers Procedure Act ("SPPA"); Rules regarding the use of Alternative Dispute Resolution have been made under section 4.8(10) of the SPPA; and Rules pertaining to Costs have been adopted by the Board pursuant to section 17.1(4) of the SPPA.
Purpose of the Interim Rules

The purposes of the Interim Rules are: to provide a fair, open, accessible and understandable process for parties and other interested persons; to facilitate and enhance access and public participation; to encourage co-operation among parties; to assure the efficiency and timeliness of proceedings; and to assist the Board in fulfilling its statutory mandate while the Board develops final Rules of Practice to be implemented at a later date.

RULE 1: GENERAL

Definitions

1.0 In these Interim Rules, unless the context requires otherwise,

“Acknowledgment” means the acknowledgment issued by the Registrar under Rule 4.

“the Act” means the Health Insurance Act.

"applicant" means either the physician or the General Manager who has sent notice requesting a hearing before the Board.

"Board" means the Physician Payment Review Board.

“business day” means a day other than a holiday defined in Rule 8.01(2).

”electronic hearing” means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another.

“General Manager” means the General Manager of the Ontario Health Insurance Plan appointed under section 4 of the Act.

"hearing" means a hearing in any proceeding before the Board, including oral hearings, written hearings and electronic hearings.

"Minister" means the Minister of Health and Long-Term Care of Ontario.

“Ministry” means the Ministry of Health and Long-Term Care of Ontario.

“Notice of Expedited Hearing” means the notice of expedited hearing issued pursuant to Rule 14.13.

“Notice of Hearing” means the notice of hearing issued by the Registrar pursuant to Rule 6.

"oral hearing" means a hearing at which the parties or their counsel or agents attend before the Board in person.

“parties” or “parties to the proceeding” means the General Manager and the physician or physicians named in the notice that requests a hearing.

“peer” has the meaning attributed to the term in Schedule 1 of the Act.

"physician" has the meaning attributed to the term in the Act.

"Plan" means the Ontario Health Insurance Plan.

"proceeding" means any proceeding before the Board to which these Interim Rules apply.

“Registrar” means the Registrar of the Board.

“reply” means the respondent’s written reply to the Request for a Hearing pursuant to Rule 5.
“Request for a Hearing” means an applicant’s written request for a hearing of the Board pursuant to Rule 2.

"respondent" means the physician or the General Manager who is responding to the applicant with regard to the subject matter set out in the applicant’s notice requesting a hearing before the Board.

“review panel” means a review panel established pursuant to Schedule 1 of the Act to preside over the hearing.

"written hearing" means a hearing held by means of the exchange of documents, whether in written form or by electronic means.

Interpretation

1.02 (1) These Interim Rules apply to all proceedings before the Physician Payment Review Board.

(2) These Interim Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits.

(3) These Interim Rules apply subject to the Statutory Powers Procedure Act (“SPPA”) and the Act.

(4) The Board may, at any time, as it deems necessary, dispense with compliance with any Rule, save and except those prescribed as mandatory by the SPPA and the Act.

(5) The Board may issue procedural orders for a proceeding that, if in conflict with these Interim Rules, prevail over these Interim Rules.

(6) Substantial compliance with requirements respecting the contents of forms, notices or documents under these Interim Rules is sufficient.

(7) The Board may issue practice directions as necessary to provide further information about the Board’s practices or procedures.

(8) The Board may exercise any of its powers under these Interim Rules on its own initiative or at the request of a party, except where the Interim Rules provide otherwise.

(9) If a party seeks a remedy or order that the Board cannot grant without submissions from other parties, the party seeking the remedy or order will first seek the consent of the other parties and advise the Board whether consent was obtained.

(10) Where any of these Interim Rules or orders issued by the Board conflict with any statute or regulation, the provisions of the statute or regulation shall prevail.

(11) These Interim Rules may be cited as the Physician Payment Review Board Interim Rules of Practice and Procedure.

Fair Just and Expeditious Resolution of Appeals

1.03 In order to provide for the fair, just and expeditious resolution of any matter before it the Board may:

a) lengthen or shorten any time limit in these Interim Rules;

b) add or remove a party;

c) allow any filing to be amended;
d) consolidate or hear appeals together;

e) direct that appeals be heard separately;

f) direct that notice of a proceeding be given to any person or organization;

g) determine and direct the order in which issues in a proceeding, including issues considered by a party or the parties to be preliminary, will be considered and determined;

h) define and narrow the issues;

i) make or cause to be made an examination of records or other inquiries, as it considers necessary;

j) determine and direct the order in which evidence will be presented;

k) on the request of a party, direct another party to adduce evidence or produce a witness when that person is reasonably within that party’s control;

l) permit a party to give a narrative before questioning commences;

m) question a witness;

n) limit the evidence or submissions on any issue;

o) advise when additional evidence or witnesses may assist the Board;

p) require a party or other person to produce any document, information or thing and to provide such assistance as is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce the information in any form;

q) on the request of a party, require another party or other person to provide a report, statement, or oral or affidavit evidence;

r) direct that the deponent of an affidavit be cross-examined before the Board;

s) make such further orders as are necessary to give effect to an order or direction under these Interim Rules;

t) attach terms or conditions to any order or direction;

u) make such orders or give such directions as are necessary to prevent abuse of its processes and ensure that the conduct of participants in Board proceedings is courteous and respectful of the Board and other participants; and

v) take any other action that the Board determines is appropriate.

Signing of Documents

1.04 Unless specifically required otherwise, a document to be signed on behalf of the Board may be signed by the Registrar, a Chair, a Vice-Chair or a Board Case Officer.

Board Counsel

1.05 The Board may appoint and direct its own legal counsel to advise the Board.
Communication with the Board

1.05(1) General written communication to the Board prior to a Board Case Officer being assigned shall occur only through the Registrar and shall be copied to all parties or their authorized representatives.

(2) Written communication to a panel of the Board shall occur only through the assigned Case Officer and shall be copied to all parties or their authorized representatives.

(3) Oral communication with a panel of the Board about a current proceeding shall occur only in the presence, or with the consent, of all parties.

Representatives

1.06 Where a party, participant or other presenter has an authorized representative, all communication to them from either the Board or the other parties, participants and presenters shall be through the representative, unless the party, participant or presenter agrees otherwise.

Accommodation of Human Rights Code-related Needs

1.07 Parties, representatives and witnesses are entitled to accommodation of Human Rights Code-related needs by the Board and should notify the Board’s Registrar as soon as possible if accommodation is required. The provisions of these Interim Rules will be interpreted and applied in a manner that is consistent with the Human Rights Code.

RULE 2: APPLICANT’S REQUEST FOR A HEARING

Applicant’s Request for a Hearing

2.01(1) An applicant requesting a hearing by the Board shall provide to the Registrar a “Request for a Hearing”, which shall be in writing and shall include:

(a) The names of every applicant and respondent, and: (1) if the applicant is a physician, his/her medical specialty as defined by the Royal College of Physicians and Surgeons of Canada, and (2) if the applicant is the General Manager, the respondent’s medical specialty;

(b) The specific provision(s) of the Act under which the hearing is requested. Where the General Manager is the applicant and is requesting a hearing pursuant to either subsection 18(5) or subsection 40.3(1) of the Act, the General Manager shall also state whether an expedited hearing is requested;

(c) A summary statement of the matter(s) that the Board is requested to determine at the hearing and the specific remedy or order(s) that the applicant requests the Board to make;

(d) A summary statement of the applicant’s submissions relevant to the matter(s) to be determined by the Board and in support of the remedy or order(s) of the Board being sought by the applicant;

(e) A list of the material, supporting documentation, evidence and other materials, (including, if applicable, any decision or opinion of the General Manager and any relevant correspondence between the applicant and the respondent) that the applicant intends to rely on at the hearing, together with a summary of the substance of such documentation, evidence and other materials;
(f) Proof of service on each respondent of the applicant’s Request for a Hearing unless the Act permits such service to be effected after the applicant issues its Request for a Hearing, in which case Rule 2.01(2) shall apply;

(g) Evidence that the applicant has complied with all other requirements, if any, of the Act that are to be complied with by the applicant prior to, or concurrently with, the issuance of its Request for a Hearing;

(h) The type of hearing (whether an oral hearing, a written hearing or an electronic hearing, or combination thereof) preferred by the applicant and the reasons therefor; and

(i) The telephone number and address for service of the applicant and the respondent, and their respective counsel or agent, if represented by counsel or agent.

(2) Where the Act permits the Request for a Hearing to be served by the applicant on the respondent after the applicant’s issuance of the Request for a Hearing to the Board, proof of service of such notice to the respondent must be forwarded to the Board within five (5) days after the applicant’s issuance of its Request for a Hearing to the Board.

(3) The Registrar may require the applicant to file additional information or materials with the Board, and concurrently serve same on each respondent, in order to complete processing a Request for a Hearing and to issue the Acknowledgement under Rule 4.

(4) A Request for a Hearing is considered complete and in order only if the Registrar or the Board determines that it meets the requirements set out in Rule 2.01 and either Rule 2.02(1) does not apply or has been complied with in accordance with Rule 2.03.

Decision Not to Process a Request for a Hearing

2.02 (1) Upon receipt of a Request for a Hearing, the Board or the Registrar, may decide not to process the Request for a Hearing if,

(a) the Request for a Hearing is incomplete;

(b) the Request for a Hearing is received after the time for commencing the proceeding, as determined by statute, has elapsed; or

(c) there is some technical defect in the Request for a Hearing; or

(d) any combination of the reasons outlined in (a) to (c) above.

(2) Where a decision is made not to process a Request for a Hearing under Rule 2.02(1), the Board or the Registrar shall notify the applicant of its decision under Rule 2.02(1) and shall set out in the notice the reasons for the decision and the requirements that the applicant must meet in order for the processing of the notice requesting a hearing to be resumed.

Requirements for Resuming the Processing of a Request for a Hearing

2.03 Where the decision not to process a Request for a Hearing is based:

(a) in whole or in part on the reasons referred to in Rule 2.02(1)(a), the Board will resume processing the notice requesting a hearing if the outstanding documentation is filed with the Board, and concurrently served on the respondent, within twenty (20) days of the service of the notice pursuant to Rule 2.02(2), failing which the applicant’s request for a hearing shall be deemed to be withdrawn;
(b) in whole or in part on the reasons referred to in Rule 2.02(1)(b),

(i) the applicant may make written submissions to the Board with respect to the dismissal within twenty (20) days of the service of the notice pursuant to Rule 2.02(2), failing which the applicant’s request for a hearing shall be deemed to be withdrawn;

(ii) The Board or the Registrar shall consider any submissions made under Rule 2.03(b)(i) in deciding whether to resume processing the notice requesting a hearing and shall notify the applicant of its decision within ten (10) days of receipt of such submissions whether to resume processing the notice requesting a hearing or dismissing the proceeding without a hearing; or

(c) in whole or in part on the reasons referred to in Rule 2.02(1)(c), the Board will resume processing the notice requesting a hearing if the outstanding technical defect is corrected within twenty (20) days of the service of notice pursuant to Rule 2.02(2), failing which the applicant’s request for a hearing shall be deemed to be withdrawn.

**RULE 3: DISMISSAL OF A PROCEEDING WITHOUT A HEARING**

**Grounds for Dismissal Without a Hearing**

3.01 Subject to Rule 3.03, at any time, the Board may also dismiss a proceeding without a hearing if,

(a) the proceeding is frivolous, vexatious or is commenced in bad faith;

(b) the proceeding relates to matters that are outside the jurisdiction of the Board;

(c) the applicant is seeking remedies that are outside the jurisdiction of the Board; or

(d) some aspect of the statutory requirements for bringing the proceeding has not been met.

**Notice of Intention to Dismiss**

3.02 (1) Before dismissing a proceeding under this Rule, the Board shall give notice to the applicant of its intention to dismiss the proceeding, which notice shall also be given to the respondent if the Board or the Registrar has then received proof that the respondent had been served with notice of the applicant’s notice requesting the hearing.

(2) The notice of intention to dismiss a proceeding under this Rule shall set out the reasons for the dismissal and the right of the applicant to make written submissions to the Board with respect to the dismissal within twenty (20) days of service of the notice of intention to dismiss. For clarity, the right to make written submissions under this Rule 3.02(2) does not apply to any dismissal under Rule 2.03(b)(ii).

**Right to Make Submissions**

3.03 (1) The applicant may make written submissions to the Board with respect to a notice of intention to dismiss issued by the Board under Rule 3.02 within twenty (20) days of service of the notice of intention to dismiss.
(2) The Board shall not dismiss a proceeding under this Rule until it has given notice under Rule 3.02 and considered any submissions permitted to be made under Rule 3.03(1).

**RULE 4: ACKNOWLEDGMENT**

**Acknowledgment**

4.01 Subject to Rule 3, where the Registrar or the Board has determined that the applicant's Request for a Hearing is complete and in order in accordance with Rule 2, the Registrar shall send to the parties, or their respective counsel or agent, if represented by counsel or agent, an Acknowledgment to that effect within fifteen (15) days of such determination.

4.02 Notwithstanding the issuance of an Acknowledgment, the Registrar or the Board may, at any time, require any party to the proceedings to file such additional information or materials as the Board may require and serve same on all other parties to the proceedings.

**RULE 5: RESPONDENT'S REPLY**

**Respondent's Reply**

5.01 Within twenty (20) days of date of the Acknowledgment, the respondent shall file with the Board, and serve on every applicant, the respondent’s Reply, which shall be in writing and shall include:

(a) If the respondent is a physician, his/her confirmation of his/her medical specialty as set out in the Request for a Hearing, or any correction thereto and reasons therefor. If the respondent is the General Manager, his/her confirmation of the applicant’s statement of the applicant’s medical specialty as set out in the Request for a Hearing or any correction thereto and reasons therefor;

(b) A summary statement of the each matter of substance or procedure set out in the applicant's Request for a Hearing (and in any additional information or materials pertaining to the proceeding that have been served by the applicant on the respondent) that the respondent disputes and a summary statement of its submissions in support of such dispute;

(c) A list of the material supporting documentation, evidence and other materials, (including, if applicable, any decision or opinion of the General Manager and of any relevant correspondence between the applicant and the respondent) that the respondent intends to rely on at the hearing, together with a summary of the substance of such documentation, evidence and other materials;

(d) Proof of service on each applicant of the respondent's Reply;

(e) Evidence that the respondent has complied with all other requirements, if any, of the Act that are to be complied with by the respondent prior to, or concurrently with, the issuance of its Reply;

(f) The type of hearing (whether an oral hearing, a written hearing or an electronic hearing) preferred by the respondent and the reasons therefor; and
(g) Confirmation or correction of the telephone number and address for service of
the respondent, and his/her counsel or agent, if represented by counsel or agent,
as set out in the Request for a Hearing.

Rectification of Reply

5.02 The respondent shall rectify any defects or omissions in the form and substance of its
Reply upon twenty (20) days of issuance of any notice from the Registrar or the Board
asking it to do so, failing which its Reply shall be deemed to be withdrawn and it shall be
deemed to have accepted and agreed to all matters set out in the applicant’s Request for
a Hearing (and in all other information and materials served by the applicant on the
respondent in relation thereto).

RULE 6: NOTICE OF HEARING

Contents of Notice of Hearing

6.01(1) Subject to Rule 3 (dismissal of a proceeding without a hearing) and Rule 6.01(2),
where the Registrar or the Board has determined that that the respondent’s Reply is
complete and in order in accordance with Rule 5, the Registrar shall send to the
applicant and the respondent, or their respective counsel or agent, if represented by
counsel or agent, a Notice of Hearing within fifteen (15) days of such determination,
setting out:

(a) the date, time and place of each type of hearing (whether an oral hearing, a
written hearing or an electronic hearing or any combination thereof) that will be
conducted in the proceeding;

(b) the specific purpose(s) of each type of hearing (whether an oral hearing, a written
hearing or an electronic hearing or a combination thereof) that the Board, in its
discretion, has determined shall be conducted after due consideration of the
preferences of the parties as set out in the notice requesting a hearing (in the
case of the applicant) and Reply (in the case of the respondent) and other
relevant factors, including those provided for in Rule 6.02(4) and Rule 6.06(4), as
applicable;

(c) a reference to the statutory authority under which the hearing will be held;

(d) if an oral hearing is specified, a statement that if the party notified does not attend
at the hearing, the Board may proceed in the party’s absence and the party will
not be entitled to any further notice in the proceeding;

(e) if a written hearing is specified:

   (i) the details about the manner in which the hearing will be held;

   (ii) a statement that the hearing shall not be held as a written if the party satisfies
the Board that there is good reason for not holding a written hearing (in which
case the Board is required to hold it as an electronic or oral hearing) and an
indication of the procedure to be followed for that purpose;

   (iii) a statement that if the party notified neither acts under the foregoing clause (ii)
nor participates in the hearing in accordance with the Notice of Hearing, the
Board may proceed without the party’s participation and the party will not be
entitled to any further notice in the proceeding;

   (iv) directions respecting the exchange of information in writing;
(v) a list of documents and materials that have been filed by the applicant and respondent for the Board’s consideration; and

(vi) if applicable, a statement that the parties will be obliged to provide together with their final submissions, any further documents or materials that each is relying on to support its position at least seven (7) days prior to the scheduled date of the written hearing.

(f) if an electronic hearing is specified:
   (i) details about the manner in which the electronic hearing will be held;
   (ii) a statement that the only purpose of the electronic hearing is to deal with the matters specified in the Notice of Hearing, if that is the case;
   (iii) if the foregoing clause (ii) does not apply, a statement that the party notified may, by satisfying the Board that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the Board to hold the hearing as an oral hearing; and
   (iv) a statement that if the party notified neither acts under the foregoing clause (iii), if applicable, nor participates in the hearing in accordance with the Notice of Hearing, the Board may proceed without the party’s participation and the party will not be entitled to any further notice in the proceeding;

(g) the nature of the information, documentation, evidence and other materials that the Board considers necessary for the proper conduct of the hearing and the time by which each party is to file with the Board and serve on the other party certified copies of all documentation, evidence and other materials on which it intends to rely at the hearing, including, in the case of the applicant, those referenced in the applicant’s Request for a Hearing filed under Rule 2.01 and, in the case of the respondent, those referenced in the respondent’s Reply filed under Rule 5.01;

(h) the names of all four (4) members of the review panel established under Schedule 1 of the Act to preside over the hearing, specifying who among them:
   (i) is the chair of the review panel;
   (ii) are the three (3) physician members of the review panel and the medical specialty of each of them; and
   (iii) the member who is designated the peer of the physician who is the subject matter of the hearing or a statement that no such peer is available for the hearing, together with a statement that if said physician has any concerns with regard to such peer member, including whether the peer is also a member of the same medical specialty as defined by the College of Physicians and Surgeons of Ontario as the said physician, the physician may notify the Board within five (5) days of the date of the Notice of Hearing stating his/her concerns and the reasons for them; and
   (i) such other information and direction to the parties as the Board deems necessary or advisable.

6.01(2) The time for issuing the Notice of Hearing that is set out in section 6.01(1) does not apply where the Board determines that a pre-hearing conference should be held, or where a matter is proceeding to a settlement conference or mediation. In such a case, the Board shall issue a Notice of Pre-hearing Conference, a Notice of Settlement Conference, or a Notice respecting the Mediation within 15 days from the date that the Registrar or the Board determined that the respondent’s Reply is complete and in order in accordance with Rule 5.
Criteria for Written Hearing and Objections

6.02(1) The Board may conduct, at any time, a proceeding or part of a proceeding by means of a written hearing.

(2) The Board shall not hold a written hearing if a party satisfies the Board that there is good reason for not doing so, in which case the Board shall hold the hearing as an electronic or oral hearing.

(3) In deciding when to hold a written hearing, the Board may consider any relevant factors, including:
(a) the suitability of a written hearing format considering the subject matter of the hearing, including the extent to which the matters are in dispute;
(b) whether the nature of evidence is appropriate for a written hearing, including whether credibility is an issue and the extent to which the facts are in dispute;
(c) the extent to which the matters in dispute are questions of law;
(d) the convenience of the parties;
(e) the cost, efficiency and timeliness of proceedings;
(f) avoidance of unnecessary length or delay;
(g) ensuring a fair and understandable process;
(h) the desirability or necessity of public participation or public access to the Board’s process; or
(i) any other consideration affecting the fulfillment of the Board’s statutory mandate.

6.03(1) A party that objects to a hearing being held as a written hearing shall notify the Board and all other parties of its objection in writing within twenty (20) days of the date of being notified that a written hearing will be held.

(2) A party shall not object to a hearing being held as a written hearing where the only purpose of the hearing is to deal with procedural matters.

6.04 A notice of objection to a hearing being held as a written hearing shall be in the form of a notice of motion, with accompanying affidavits in support of the motion and the objecting party and all parties responding to the motion, shall follow the usual procedure for the hearing of motions.

6.05(1) If the Board receives an objection to a hearing being held as a written hearing, it may:
(a) accept the objection, cancel the written hearing and schedule either an electronic or oral hearing; or,
(b) if the Board is satisfied that there is no good reason for not holding a written hearing, reject the objection without inviting responses from the other parties and proceed with the written hearing; or,
(c) provide all other parties with an opportunity to respond to the objection and, after considering the objection and all responses, proceed with the written hearing or schedule an electronic or oral hearing.
(2) For the purpose of providing the parties with an opportunity to respond to any objection under Rule 6.05(1)(c), the Board shall provide directions in its Notice of Hearing as to the form and timing of the parties’ responses to any objection and for the reply, if any, of objecting parties to such responses.

Criteria for Electronic Hearings and Objections

6.06(1) The Board may conduct, at any time, a proceeding or part of a proceeding by means of an electronic hearing.

(2) The Board shall not hold an electronic hearing if a party satisfies the Board that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

(3) In deciding whether to hold an electronic hearing, the Board may consider any relevant factors, including:
   (a) the suitability of the electronic technology for the subject matter of the hearing;
   (b) whether the nature of the evidence is appropriate for an electronic hearing, including whether credibility is in issue and the extent to which the facts are in dispute;
   (c) the extent to which the matters in dispute are questions of law;
   (d) the convenience of the parties;
   (e) the cost, efficiency and timeliness of proceedings;
   (f) avoidance of unnecessary length or delay;
   (g) ensuring a fair and understandable process;
   (h) the desirability or necessity of public participation in or public access to the Board’s process; and
   (i) any other consideration affecting the fulfillment of the Board’s statutory mandate.

6.07(1) A party that objects to a hearing being held as an electronic hearing shall notify the Board and all other parties of its objection in writing within twenty (20) days of the date of being notified that an electronic hearing will be held.

(2) A party shall not object to a hearing being held as an electronic hearing where the only purpose of the hearing is to deal with procedural matters.

6.08 A notice of objection to a hearing being held as an electronic hearing shall be in the form of a notice of motion, with accompanying affidavits in support of the motion, and the objecting party and all parties responding to the motion shall follow the usual procedure for the hearing of motions.

6.09(1) If the Board receives an objection to a hearing being held as an electronic hearing, it may:
   (a) accept the objection, cancel the electronic hearing and either schedule an oral hearing, or, with consent of the parties, schedule a written hearing;
   (b) if the Board is satisfied that an electronic hearing will cause no significant prejudice, reject the objection without inviting responses from the other parties and proceed with the electronic hearing; or
   (c) provide all other parties with an opportunity to respond to the objection and, after considering the objection and all responses, proceed with the electronic hearing, schedule an oral hearing, or with consent of the parties, schedule a written hearing.
(2) For the purpose of providing the parties with an opportunity to respond to any objection under Rule 6.09(1)(c), the Board shall provide directions in its Notice of Hearing as to the form and timing of the parties' responses to any objection and for the reply, if any, of objecting parties to such responses.

Terms and Conditions re: Electronic Hearings

6.10 The Board may, in connection with any hearing being held as an electronic hearing, impose terms and conditions including specifying who will set up the electronic hearing and requiring that a party requesting an electronic hearing pay all or part of the cost of providing the facilities necessary for the conduct of the hearing electronically.

No Peer Member for Review Panel or Physician's Concern regarding Designated Peer Member

6.11(1) In the event the Chair of the Board or, in his/her absence, a Vice-Chair of the Board determines that no peer is available for the review panel or if the physician who is the subject matter of the hearing raises a concern about the peer member pursuant to Rule 6.01(h), the Chair of the Board or in his/her absence a Vice-Chair of the Board may, in his/her sole discretion, appoint a physician advisor under subsection 5.1(11) of the Act to provide advice to the review panel in the hearing, but such advisor shall not sit as a member of the Board or of the review panel.

(2) In the event a physician advisor is appointed under Rule 6.11(1) to assist the review panel, the review panel, as originally constituted, shall be the review panel for the hearing, and the parties shall be so notified.

(3) If the Chair of the Board, or in his/her absence, a Vice-Chair of the Board determines that, in view of the nature of the issues to be determined by the review panel, the absence of a peer member on the panel would not be prejudicial to the physician who is the subject matter of the hearing, the review panel, as originally constituted, shall be the review panel for the hearing, without the need for the appointment of a physician advisor under Rule 6.11(1), and the parties shall be so notified.

(4) If the physician who is the subject matter of the hearing raises a concern about the peer member pursuant to Rule 6.01(h), the Chair of the Board, or in his/her absence, a Vice-Chair of the Board may designate a replacement peer member, in which case the parties shall be so notified.

(5) If the physician who is the subject matter of the hearing raises a concern about the peer member pursuant to Rule 6.01(h), but the Chair of the Board, or in his/her absence, a Vice-Chair of the Board determines that such concerns and the reasons therefor do not warrant a replacement of the peer member originally designated, then the review panel, as originally constituted, shall be the review panel for the hearing, without the need for the appointment of a physician advisor under Rule 6.11(1), and the parties shall be so notified.
Access to documents

7.01 All parties are entitled to receive every document that the Board received in a proceeding.

Required Service of Documents

7.02 If a party intends to make use of any written or documentary evidence at the hearing not already provided to the Board, that party is required to serve one copy of the documents on all other parties and to file six (6) copies of such material with the Board.

“Service”

7.03(1) "Service" means the effective delivery of the documentation to any person or to the person's lawyer or agent.

(2) Service is deemed to be effective when delivered:

(a) by regular, registered or certified mail on the seventh day after the day of mailing;

(b) by facsimile transmission, on the same day as the transmission, if the document consists of sixteen (16) pages or less inclusive of the cover page. A document of more than sixteen (16) pages may be served by facsimile transmission if the party receiving the transmission gives prior consent;

(c) by courier, including Priority Post, on the second full day after the document was given to the courier by the party serving; or

(d) as directed by the Board;

at the last known address or facsimile number, as applicable, unless the person to whom the notice is to be given establishes that he or she, acting in good faith and through absence, accident, illness or other causes beyond his/her control, failed to receive the notice until a later date or at all.

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

(4) A person who serves or files a document shall include with it a statement of the person's address, telephone number and the name of the proceeding to which the document relates.

Filing Documents with the Board

7.04(1) Documents may be filed with the Board by any of the methods of delivery set out in Rule 7.03.

(2) Documents filed by fax shall be filed by 2:00 p.m., except with leave of the Board.

(3) All filings of documents with the Board shall include a statement indicating who has been served and what documents have been served.
RULE 8: TIME

Computing Time

8.01(1) In computing time periods under an Act, a regulation, these Interim Rules, or an order or decision of the Board, “days” shall be calendar days. Where the time for doing anything under an Act, these Interim Rules, or an order of the Board expires on a Holiday, or on a day when the Board is not open during its regular hours of business as set out in the table below, the time is extended to include the next day the Board is open during its regular hours of business. A reference to a number of days between two events excludes the day on which the first event happens and includes the day on which the second event happens. A period of time described as beginning or ending on, at or with a specified day includes that day. A period of time described as beginning before or after a specified day excludes that day.

<table>
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<th>Holidays and other days the Board is not open</th>
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<td>Saturday</td>
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<td>Christmas Day</td>
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<td>Boxing Day</td>
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<td>Any day fixed as a holiday by proclamation of the Governor General or Lieutenant Governor</td>
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Extension or Abridgement of Time

8.02(1) The Board may, upon motion by any party or upon motion by the Board, extend or abridge the time prescribed by these Interim Rules or make an order on such terms, if any, that the Board deems necessary.

(2) The Board may exercise its discretion under Rule 8.02(1) before or after the expiration of the time prescribed.
PRE-HEARING CONFERENCES

Purposes of Pre-Hearing Conferences

9.01 The Board may direct the parties to participate in one or more pre-hearing conferences to address issues such as the following:

(a) settling any or all of the issues;
(b) identifying, defining, clarifying or narrowing issues;
(c) establishing facts or evidence that may be agreed upon;
(d) establishing dates for the exchange among parties and with the Board of all documents relevant to the proceeding in the possession, control or power of a party, except for those documents that are privileged or where such disclosure is prohibited under the Personal Health Information Protection Act, 2004 or otherwise prohibited under any law;
(e) establishing dates for the exchange among parties of all documents, witness lists, witness statement and resumes of any expert witnesses that a party intends to rely on at the main hearing;
(f) the estimated duration of the hearing;
(g) determining the order of presentation of evidence and submissions; and
(h) any other matter which the Board decides or to which the parties consent that may assist in the just and expeditious disposition of the proceeding.

Notice of Pre-Hearing Conference

9.02(1) Notice of a pre-hearing conference shall be given to the parties and to such persons as the Board directs.

(2) The notice of a pre-hearing conference shall include:

(a) the date, time, place and purpose of the pre-hearing conference and the type of pre-conference hearing to be conducted;
(b) whether parties are required to exchange or file documents or pre-hearing submissions as prescribed by Rule 9.03 and, if so, the issues to be addressed and the date when they are required;
(c) whether parties are required to attend in person, and
   (i) if so, that they may be represented by counsel or agent; or
   (ii) if not, that their counsel or agent must be given authority to make agreements and undertakings on their behalf respecting the matters to be addressed at the pre-hearing conference;
(d) a statement that the member of the Board or other person presiding at the pre-hearing conference may make orders or recommendations with respect to the conduct of the proceeding which will be binding on all parties, in compliance with Rule 9.06(2).
**Exchange of Documents**

9.03 The person designated under Rule 9.06 to preside at a pre-hearing conference may direct the parties to file and exchange, by a specified date, documents or pre-hearing submissions, may prescribe the issues to be addressed, and may direct that such documents or submissions are not available to the public or to the hearing panel.

**Type of Pre-Hearing Conference**

9.04 A pre-hearing conference may be held as an oral hearing, a written hearing or an electronic hearing or any combination thereof, as the Board may designate in its discretion.

**Accessibility to the Public**

9.05 A pre-hearing conference shall be held in the absence of the public unless the Board directs that it be open to the public.

**Who may Preside at Pre-Hearing Conference**

9.06(1) The Chair or Registrar of the Board may designate a member of the Board or any other person to preside at the pre-hearing conference.

(2) A member of the Board who presides at a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding, and such orders shall be deemed to be orders of the Board. Any other person who is designated under section 9.06(1) of these Interim Rules to preside at a pre-hearing conference may make recommendations for approval by the Board on such orders as he or she considers necessary or advisable with respect to the conduct of the proceeding.

**Settlement**

9.07 If settlement of any issues is discussed at a pre-hearing conference:

(a) statements made without prejudice at a pre-hearing conference may not be communicated to the review panel;

(b) the member of the Board who presides at a pre-hearing conference at which the parties attempt to settle issues shall not preside at the hearing;

(c) an agreement to settle any or all of the issues binds the parties to the agreement but is subject to approval by the Board; and

(d) all agreements, orders and decisions which dispose of a proceeding as it affects any party shall be made available to the public unless the Board directs otherwise or is otherwise prohibited by law.

**Orders, Agreements, Undertakings**

9.08(1) Orders, agreements and undertakings made at a pre-hearing conference shall be recorded in a memorandum prepared by or under the direction of the person presiding at the pre-hearing conference.

(2) Copies of this memorandum will be provided to the parties and to the members of the Board presiding at the hearing of the matter and to such other persons as the person presiding at the pre-hearing conference or the Board directs.
SETTLEMENT CONFERENCES

Commencing a Settlement Conference

9.09(1) The Board may direct the matter to a settlement conference:

(a) on its own initiative, or

(b) on the written request of a party.

(2) The Chair of the Board may designate a member of the Board or any other person to preside at the settlement conference. If a member of the Board conducts the settlement conference, that person will not preside or participate at a hearing.

(3) The proceedings at a settlement conference are confidential and may not be raised before the Board during any other proceeding without the consent of all parties.

(4) The Board may direct the parties to bring evidence or documents to the settlement conference and be prepared to discuss all issues.

(5) A person attending a settlement conference on behalf of a party must have authority to resolve and reach agreement on all issues.

(6) If the parties do not resolve the matter at the settlement conference, the Board may stream the matter into another process.

MEDIATION

Commencing Mediation

9.10(1) The Board may direct the matter to mediation:

(a) on its own initiative, or

(b) on the written request of a party.

(2) The Chair of the Board may designate a member of the Board or any other person to conduct the mediation. If a member of the Board conducts the mediation, that person will not preside or participate at a hearing.

(3) The Board will notify the parties, in writing, of the scheduled date of the mediation.

(4) The proceedings of mediation are confidential and may not be raised before the Board during any other proceeding without the consent of all parties.

(5) Parties must sign a confidentiality agreement before mediation begins.

(6) At any time after a proceeding has been directed to mediation, the Board, on its own initiative or at the request of a party, may stream the matter into another process.
RULE 10: MOTIONS

Request for a Motion and Purposes

10.01 After a Notice of Hearing has been issued under Rule 6.01, or a Notice of Pre-hearing Conference has been issued under Rule 9.02, a party may request a motion, and the Board, at its discretion, may grant such request if it deems the request advisable for the following purposes:

(a) to rule upon the Board’s jurisdiction;
(b) to give directions concerning Board procedures; or
(c) for any other purpose which the Board considers necessary to carry out its functions.

Procedure to Bring a Motion

10.02(1) Where a party intends to bring a motion, the party shall request a time and date for the hearing of the motion from the Registrar, and obtain directions regarding the time limits for filing and serving motion materials.

(2) A party bringing a motion shall then file a Notice of Motion with the Registrar and serve the Notice of Motion on the Respondent and every other party.

(3) The Notice of Motion shall be in writing and shall:

(a) contain the decision or order sought and the reasons for bringing the motion and state the documentary or other evidence to be relied upon in support of the motion;

(b) include an affidavit setting out a clear and concise statement of the relevant facts pertaining to the matters to be determined at the motion; and

(c) be accompanied by any documents that may support the motion.

(4) A party requesting a motion shall serve a copy of the notice of motion on all parties when the notice of motion is filed with the Registrar.

(5) A party who wishes to respond to the motion may file with the Registrar and serve on all parties any affidavit or other supporting material to be relied upon, within the time limits directed by the Board.

(6) The member of the Board or any other person designated by the Board may hold a motion by way of an oral, written or electronic hearing.

Certain Procedural Rules Applicable to Pre-Conference Hearings Apply to Motions

10.03 Rules 9.02, 9.03 and 9.04 shall similarly apply to a motion, with all necessary changes.
Who may Preside at a Motion

10.04(1) The Chair of the Board may designate a member or members of the Board to preside at the motion.

(2) The person who presides at the motion may make such orders as he or she considers appropriate to dispose of the subject matter to be decided at the motion, and such orders shall be deemed to be orders of the Board.

RULE 11: CONSTITUTIONAL QUESTIONS

11(1) A party who intends to raise a question as to the constitutional validity or constitutional applicability of the Act, of a statute of the Parliament of Canada or of the Ontario Legislature, of a regulation or by-law made under the Act or statute, of a rule of common law, or to assert a remedy under subsection 24(1) of the Canadian Charter of Rights and Freedoms, shall file and serve notice of a constitutional question on the Attorney General of Canada and the Attorney General of Ontario, the other parties to the proceeding and the Board.

(2) The notice referred to in Rule 11(1) must be in the required form and clearly set out the basis for raising the question or asserting the remedy and any evidence that the party intends to rely upon must be attached to the notice.

(3) The Notice shall be served on the Attorneys-General and the other parties to the proceeding and filed with the Board as soon as the circumstances requiring the Notice of a Constitutional Question become known and, in any event, no later than fifteen (15) days prior to the commencement of the Hearing, unless otherwise ordered by the Board.

(4) Proof that the Notice was served on the Attorneys-General must be filed with the Board when the Board is provided with the Notice of a Constitutional Question.

(5) When a copy of any response is received from the Attorneys-General it shall be immediately provided to the Board by the person who received the response.

(6) The Attorneys-General are entitled to file material, adduce evidence and make submissions at the Hearing in respect of the constitutional question and are deemed to be parties for the purpose of any appeal in respect of the constitutional question.

(7) The Board will not consider granting the remedy requested unless the Notice has been given.

(8) The Board may choose to hear the arguments as preliminary matters before beginning to hear evidence, particularly if the constitutional question deals with the Board’s jurisdiction.

(9) If the Board determines that making a decision on the constitutional question will require it to have an extensive factual basis that will be provided by the evidence at the hearing, the Board may direct that the arguments regarding the constitutional question be heard later in the hearing and that the Board will make a decision later in the hearing or at the end of the hearing.

(10) After hearing arguments at the beginning of the hearing, the Board may choose to reserve its decision until later in the hearing or at the end of the hearing if it appears to the Board that this delay is advisable.
RULE 12: DISCLOSURE

Orders, etc.

12.01(1) "Document" includes a sound recording, videotape, file, photograph, chart, x-ray, graph, map, plan survey, book of account, and any information recorded or stored by any means.

(2) At any stage of the proceeding before completion of the hearing, the Board may make orders for:
(a) the exchange of documents;
(b) the oral or written examination of a party;
(c) the exchange of witness statements and reports of expert witnesses;
(d) the provision of particulars;
(e) a party to provide a list disclosing all relevant documents and things in the possession or control of the party;
(f) to provide a party with an opportunity to view documents; or
(g) any other form of disclosure.

(3) Rule 12.01(2) does not authorize the making of an order requiring disclosure of privileged information or information that is not subject to disclosure under any other statute or regulation.

(4) The Board shall afford to a person who is a party to proceedings before the Board an opportunity to examine, before the hearing, any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

12.02 Every party shall provide to every other party to the proceeding, no later than fifteen (15) days before the hearing date, a copy of any documents and expert reports to be relied upon, and where appropriate, a copy of the curriculum vitae of the authors of any such expert reports.

Failure to Disclose

12.03 If a party fails to comply with an order of the Board, or this Rule, the party may not refer to the document or thing or introduce the document or thing in evidence at the hearing without the consent of the Board which may be on terms and conditions as the Board considers just.

Order for Witness Statements

12.04 The Board may order a party to the hearing to provide to every other party and file with the Board witness statements or statements of the evidence witnesses will give at the hearing.
Failure to Provide Witness Statement

12.05 If a party fails to provide a witness statement or a summary of the evidence a witness will give in accordance with Rule 12.04, the party may not call the person as a witness without the consent of the Board which may be on such terms and conditions as the Board considers just.

Incomplete Witness Statement

12.06 A party may not call a witness to testify to matters not disclosed in the witness statement without the consent of the Board which may be on such terms and conditions as the Board considers just.

Expert Witness

12.07 In addition to Rule 12.02, a party who intends to call an expert witness at the hearing shall provide to every other party and file with the Board a written report signed by the expert containing the name, address and qualifications of the expert and the substance of the expert’s proposed evidence including a list of all the documents to which the expert will refer.

Failure to Provide Expert Witness Statement

12.08 If a party fails to comply with the provisions of Rule 12.07, the party may not call the expert witness without consent of the Board which may be on such terms and conditions as the Board considers just.

Where Character, etc. of a Party in Issue

12.09 If the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party or the Board making such allegations shall disclose to the party against whom the allegations are made all evidence in the party or Board’s possession or control relevant to the allegations including:

(a) all witness statements and transcripts or notes of witness interviews or, if these do not exist, statements of evidence that each witness is expected to give;

(b) all documents and other things; and

(c) all experts’ reports.

Order for Questions

12.10 The Board may order the examination of a party by another party by way of oral or written questions and may order the dates by which questions are to be asked and answered on such terms as directed by the Board.
RULE 13: MATTERS PERTAINING TO THE REVIEW PANEL

Matters Pertaining to the Review Panel

13.01(1) Subject to Rule 13.02, the review panel consisting of the four (4) members of the Board specified in the Notice of Hearing shall conduct and preside over the hearing and shall hear and determine the matter before it.

(2) Members of the review panel for the hearing shall not have taken part before the hearing in any consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of the party, except upon notice to and with opportunity for all parties to participate.

(3) The review panel may seek legal advice from a person who is not counsel in the hearing to any party and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

(4) The Board may appoint, from time to time, one or more persons having technical or special knowledge of any matter before a review panel to inquire into and report to the Board and to assist the review panel in any capacity in respect of any matter before it, provided that the person so appointed shall not sit as a member of the Board or of any review panel to conduct a hearing.

(5) If, prior to the conclusion of the hearing and the rendering of a decision of the review panel, a member of the review panel for the hearing dies, or has his/her appointment to the Board terminated or becomes unable or unwilling, for any reason, to continue as a member of the review panel, the remaining members of the review panel may complete the hearing and render a decision, but if such member is the peer of the physician who is the subject matter of the hearing, the Chair of the Board, or in his/her absence, a Vice-Chair of the Board shall select a replacement peer member and the hearing shall be recommenced *ab initio* so that all matters heard by the replaced peer member of the review panel can be reheard by the review panel consisting of the replacement peer member and the other members of the original review panel. The Board may establish specific directions for such rehearing for the purpose of avoiding further delay. No such replacement peer member need be selected if the parties consent to the remaining members of the review panel completing the hearing and rendering a decision.

(6) If, prior to the conclusion of the hearing and the rendering of a decision of the review panel, the term of office of a member of the review panel for the hearing expires, his/her term shall be deemed to continue only until the hearing is completed and the decision of the review panel is rendered.

(7) Unless the Chair of the Board determines otherwise, if any member of the review panel has a conflict of interest, the remaining members of the review panel may complete the hearing and render a decision, unless such member is the peer of the physician who is the subject matter of the hearing, in which case Rule 14.07(5) shall apply, with all necessary modifications.

(8) An order of the review panel is for all purposes an order of the Board.
Panel of One or Reduced Panel

13.02(1) Subject to Rule 13.02(2), the Chair of the Board may assign to a panel less than the four members required under the Act, including a panel of one, if the Chair determines it is appropriate to do so in the circumstances and all of the parties to the proceeding consent.

(2) The ability to assign less than four members set out in Rule 13.02(1) applies only to the hearing of motions that are solely or primarily procedural in nature.

RULE 14: HEARINGS

Public Access re: Oral Hearings and Exceptions

14.01(1) An oral hearing shall be open to the public except where the Board is of the opinion that:

(a) matters involving the public security may be disclosed; or

(b) intimate financial or personal matters (including, without limitation, matters pertaining to personal health information, insured persons or insured services as those terms are used in the Act) or other matters of such a nature and having regard to the circumstances, the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public;

in which case the Board may hold the hearing in the absence of the public.

(2) At any point during a hearing, the Board, whether on its own initiative or on the request of a party, may order that the public be excluded if the Board is of the opinion that any of the reasons set out in Rule 14.01(1)(a) or (b) exist.

(3) The Board may in its discretion, determine who constitutes "the public" for the purposes of this Rule.

Public Access re: Written Hearings and Exceptions

14.02(1) In a written hearing, members of the public are entitled to reasonable access to the documents submitted as evidence or to all documents submitted to the Board, unless the Board is of the opinion that that any of the reasons set out in Rule 14.01(1)(a) or (b) exist or access is otherwise prohibited under applicable law.

(2) At any point during a written hearing, the Board, whether on its own initiative or on the request of a party, may order that access to all or part of the written documents be denied to the public if the Board is of the opinion that any of the reasons set out in Rule 14.01(1)(a) or (b) exist or access is otherwise prohibited under applicable law.

Public Access re: Electronic Hearings and Exceptions

14.03 An electronic hearing shall be open to the public unless the Board is of the opinion that:

(a) it is not practical to hold such hearing in a manner that is open to the public; or

(b) the Board is of the opinion that that any of the reasons set out in Rule 14.01(1)(a) or (b) exist or access to the public is otherwise prohibited under applicable law.
Parties to the Hearing

14.04 The parties to a proceeding before the Board are the applicant and the respondent.

Representation of Parties

14.05 A party to a proceeding may be represented by counsel or an agent.

Effect of Non-Attendance or Non-Participation

14.06(1) Where a Notice of Hearing given to a party specifies an oral hearing and the party does not attend at the hearing, the Board may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding.

(2) Where a Notice of Hearing given to a party specified a written hearing and the party neither acts under clause (ii) of Rule 6.01(1)(e) nor participates in the hearing in accordance with the Notice of Hearing, the Board may proceed without the party’s participation and the party is not entitled to any further notice in the proceeding.

(3) Where a Notice of Hearing given to a party specifies an electronic hearing and the party neither acts under clause (iii) of Rule 6.01(1)(f) nor participates in the hearing in accordance with the Notice of Hearing, the Board may proceed without the party’s participation and the party is not entitled to any further notice in the proceedings.

Record of Proceedings

14.07 The Board shall compile a record of any proceeding in which a hearing has been held which shall include:

(a) the applicant’s notice requesting a hearing by which the proceeding was commenced;
(b) the respondent’s Reply;
(c) the notice of hearing;
(d) any interlocutory orders made by the Board;
(e) all documentary evidence filed with the Board, subject to any limitation expressly imposed by the Act, these Interim Rules and any other statute on the extent to or the purposes for which any such documents may be used in evidence in any proceeding;
(f) the transcript, if any, of the oral evidence given at the hearing; and
(g) the decision of the Board and the written reasons therefor, where written reasons have been given.

Recording Evidence

14.08 The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as the Ontario Superior Court of Justice (including with respect to costs).
Proceedings Involving Similar Questions

14.09 If two or more proceedings before the Board involve the same or similar questions of fact, law or policy, the Board may:
   (a) combine the proceedings or any part of them, with the consent of the parties;
   (b) hear the proceedings at the same time, with the consent of the parties;
   (c) hear the proceedings one immediately after the other; or
   (d) stay one or more of the proceedings until after the determination of another one of them.

Disposition of Proceeding Without a Hearing

14.10 If the parties consent, the proceeding may be disposed of by a decision of the Board given without a hearing.

Maintenance of Order at Oral and Electronic Hearings

14.11 The Board may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing and, if any person disobeys or fails to comply with any such order or direction, the Board or a member thereof may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.

Expedited Hearings

Application

14.12 Where the General Manager issues a Request for a Hearing that complies with Rule 2 and specifies therein that the request is made for an expedited hearing under subsection 18(5) or subsection 40.3(1) of the Act, this Rule 14 shall apply, and in the event of a conflict or inconsistency between the procedures set out in this Rule and in any other Rule, this Rule 14 shall apply but only to the extent of such conflict and inconsistency.

Simplified Procedures and Abridged Periods

14.13(1) Upon receipt of a Request for a Hearing referred to in Rule 14.12:
   (a) the Board shall set a date, time and place for an expedited hearing to be held on a business day that is no later than 30 days following the date of receipt of the Request for a Hearing.
   (b) no Acknowledgement under Rule 4 is required to be issued by the Registrar or the Board, nor is a Reply under Rule 5 required be filed within the period set out in Rule 5, but immediately upon setting a date, time and place for the expedited hearing under Rule 14.13(a), the Board shall immediately issue to the applicant and the respondent a Notice of Expedited Hearing which shall contain the matters required to be included in a Notice of Hearing under Rule 6, but also providing directions for:
      (i) the respondent to file with the Board and serve on the applicant the respondent’s Reply under Rule 5 within such abridged period as may be
specified in the Notice of Expedited Hearing, but such abridged period shall be no shorter than within fifteen (15) days of the date of the Notice of Expedited Hearing,

(ii) each party to file with the Board and serve on the other party such documentation, evidence, information and other materials relevant to the expedited hearing in advance of such hearing within such abridged period as may be specified in the Notice of Expedited Hearing; and

(iii) such other directions, information or requirements as the Board may consider necessary or appropriate for the proper and expeditious conduct of the expedited hearing in accordance with the Act, and the consequences of a party’s failure to comply with any such directions, information or requirements.

(2) Any matter that may be the subject of a motion under Rule 10 that a party wishes to raise shall be determined by the review panel at the commencement of the hearing.

RULE 15: WITNESSES

Administration of Oaths

15.01 A member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings and the Board may require evidence before it to be given under oath or affirmation.

Rights of Parties to Examine Witnesses at Hearings

15.02 A party to a proceeding may, at an oral or electronic hearing:

(a) call and examine witnesses and present evidence and submissions; and

(b) conduct cross-examinations of witnesses at the hearing to the extent reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding.

Rights of Counsel to Witnesses

15.03 (1) A witness at an oral or electronic hearing is entitled to be advised by counsel or an agent as to his or her rights but such counsel or agent may take no other part in the hearing without leave of the Board.

(2) Where an oral hearing is closed to the public, the counsel or agent for a witness is not entitled to be present except when that witness is giving evidence.

Summons to Witness

15.04 (1) The Board may issue a summons to a witness on its own initiative or upon request of a party.

(2) The Board may require any person, including a party, by summons:

(a) to give evidence on oath or affirmation at an oral or electronic hearing; and

(b) to produce in evidence at an oral or electronic hearing documents and things specified by the Board;
relevant to the subject matter of the proceeding and admissible at a hearing.

(3) A summons issued under Rule 15.04(1) shall be in the prescribed form (in English or French) and, shall be signed by the chair of the Board or the chair of the review panel for the hearing.

(4) The summons shall be served personally on the person summoned by the party who requested the summons.

(5) The person summoned is entitled to receive the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Ontario Superior Court of Justice, and payment to such fees is the responsibility of the party who requested the summons.

(6) A judge of the Ontario Superior Court of Justice may issue a warrant against a person if the judge is satisfied that:
   (a) a summons was served on the person under this Rule;
   (b) the person has failed to attend or to remain in attendance at the hearing (in the case of an oral hearing) or has failed otherwise to participate in the hearing (in the case of an electronic hearing) in accordance with the summons; and
   (c) the person’s attendance or participation is material to the ends of justice.

(7) The warrant shall be in the prescribed form (in English or French), directed to any police officer, and shall require the person to be apprehended anywhere within Ontario, brought before the Board forthwith and,
   (a) detained in custody as the judge may order until the person’s presence as a witness is no longer required; or
   (b) in the judge’s discretion, released on a recognizance, with or without sureties, conditioned for attendance or participation to give evidence.

(8) Service of a summons may be proved by affidavit in an application to have a warrant issued under Rule 15.04(6).

(9) Where an application to have a warrant issued is made on behalf of the Board, the chair of the Board may certify to the judge the facts relied on to establish that the attendance or other participation of the person summoned is material to the ends of justice, and the judge may accept the certificate as proof of the facts.

(10) Where the application is made by a party to the proceeding, the facts relied on to establish that the attendance or other participation of the person is material to the ends of justice may be proved by the party’s affidavit.

(11) The party requesting the summons from the Board shall ensure that it is served within a reasonable time before the date the witness’ attendance is required.

Contempt Proceedings

15.05 Where any person without lawful excuse:
   (a) on being duly summoned under Rule 15.04 as a witness at a hearing makes default in attending at the hearing; or
(b) being in attendance as a witness at an oral hearing or otherwise participating as a witness at an electronic hearing refuses to take an oath or to make an affirmation legally required by the Board to be taken or made, or to produce any document or thing in his or her power or control legally required by the Board to be produced by him or her or to answer any question to which the Board may legally require an answer; or

(c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court; the Board may, of its own motion or on the motion of a party to the proceeding, state a case to the Divisional Court setting out the facts and that court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court.

Protection for Witnesses

15.06 A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to incriminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence.

Abuse of Processes

15.07(1) The Board may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.

(2) The Board may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

(3) The Board may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party or as an adviser to a witness if it finds that such person is not competent properly to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or adviser.

RULE 16: EVIDENCE

Admissible Evidence at a Hearing

16.01(1) Subject to Rule 16.01(2) and (3) below, the Board, in its discretion, may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court:

(a) any oral testimony; and

(b) any document, record or other information or thing, regardless of the date thereof
that is relevant to the subject matter of the hearing and may act on such evidence, but the Board may exclude anything unduly repetitious.

(2) Nothing is admissible in evidence at a hearing:
   (a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or
   (b) that is inadmissible under the Act or any other applicable statute.

(3) Nothing in Rule 16.01(1) overrides the provisions of any applicable statute expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding before the Board.

(4) Where the Board is satisfied as to its authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.

(5) Where a document has been filed in evidence at a hearing, the Board may, or the person producing it or entitled to it may, with leave of the Board, cause the document to be photocopied and the Board may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by a member of the Board.

(6) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a copy thereof by a member of the Board, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.

Evidence Permitted to be Entered under the Act

16.02 The Board shall admit as evidence at a hearing all evidence that, under the Act, is specifically permitted to be entered in a proceeding before the Board, including the evidence that may be entered by the General Manager under subsection 11(2) of Schedule 1 to the Act, if applicable to the proceeding.

Previously Admitted Evidence

16.03(1) In addition to the powers to admit evidence under Rule 16.01 and Rule 16.02, the Board may treat previously admitted evidence as if it had been admitted in a proceeding before the Board, if the parties to the proceeding consent.

(2) For the purposes of Rule 16.03(1), "previously admitted evidence" means evidence that was admitted before the hearing of the proceeding referred to in that Rule:
   (a) in another proceeding to which these Interim Rules apply; or
   (b) in a proceeding to which these Interim Rules do not apply that is before an Ontario court or other tribunal, whether in or outside Ontario.

Witness Panels

16.04 The Board may receive evidence from panels of witnesses composed of two or more persons, if the parties have first had an opportunity to make submissions in that regard.
Notice of Facts and Opinions

16.05 The Board may, in making its decision in any proceeding:

(a) take notice of facts that may be judicially noticed; and
(b) take notice of any generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge.

Return of Exhibits

16.06 The Board will retain all exhibits filed in proceedings before it until thirty (30) days after the time for an appeal of the Board’s decision under Rule 22 has lapsed, unless the Board's decision is appealed under that Rule.

RULE 17: OTHER RULES PERTAINING TO WRITTEN HEARINGS AND ELECTRONIC HEARINGS

Other Rules Pertaining to Written Hearings

17.01(1) The Board may continue a written hearing as an oral or electronic hearing whenever the Board considers it appropriate.

(2) If the Board decides to convert a written hearing into an oral or electronic hearing format or to start the hearing again as an oral or electronic hearing, it shall notify the parties of its decision and may supply directions as to the holding of that hearing. The Board shall not continue a written hearing as an electronic hearing if a party satisfies the Board that holding an electronic hearing rather than an oral hearing is likely to cause the party significant prejudice. A party that objects to the hearing being continued as an electronic hearing on such basis shall follow the procedure outlined in Rule 6 pertaining to objections to an electronic hearing, with all necessary changes, and the provisions pertaining to the disposition of a notice of such objection under Rule 6 shall apply, with all necessary changes, but subject to such orders of the Board to abridge the time for filing of materials and for disposition of the objection as it deems necessary to minimize further delay in the proceedings.

17.02(1) In a written hearing, all the parties are entitled to receive every document that the Board receives in the proceeding.

(2) Written documents submitted to the Board must be typewritten.

17.03(1) Unless otherwise directed by the Board, each party shall file with the Registrar and serve on every other party certified copies of all documentation, evidence and other materials on which it intends to rely at the hearing, including, in the case of the applicant, those referenced in the applicant’s notice requesting a hearing filed under Rule 2.01 and, in the case of the respondent, those referenced in the respondent’s Reply filed under Rule 5.01 within (20) twenty days of the date of the Notice of Hearing issued under Rule 6.01.

(2) The Board may require any party to provide further information, and this information shall be supplied to the other parties and persons as directed by the Board.

(3) If the applicant wishes to make further submissions in response to the submissions of the respondent in its Reply, the applicant shall do so by filing and serving its further submissions within ten (10) days of receiving the respondent’s Reply.
17.04(1) All evidence in a written hearing shall be in writing or, when electronic transmission is permitted, it shall be in the form directed by the Board.

(2) The evidence shall identify the person giving the evidence and shall either be in certified form or in affidavit form.

(3) Evidence shall include all documents and things a party is relying on to support the remedy or order requested or otherwise relevant to the matters to be determined by the Board.

17.05(1) There shall be no oral examination in a written hearing unless ordered by the Board.

(2) If a party requests, the Board may order that a party present a witness to be examined upon such conditions as the Board directs.

Other Rules Pertaining to Electronic Hearings

17.06(1) In an electronic hearing, all the parties and the members of the review panel must be able to hear one another and any witnesses throughout the hearing.

(2) If Rule 17.06(1) cannot be satisfied, the Board may adjourn the hearing and direct that an electronic hearing that does not satisfy Rule 17.06(1) is a nullity.

(3) The Board may continue an electronic hearing as an oral hearing or a written hearing whenever the Board deems it appropriate. If the Board decides to convert an electronic hearing into an oral or written hearing or to start the hearing again as an oral or written hearing, it shall notify the parties of its decision and may supply directions as to the holding of that hearing. The Board shall not continue an electronic hearing as a written hearing if a party satisfies the Board that there is good reason for not doing so. A party that objects to the hearing being continued as a written hearing on such basis shall follow the procedure outlined in Rule 6 pertaining to objections to a written hearing, with all necessary changes, and the provisions pertaining to the disposition of notice of such objection under Rule 6 shall apply, with all necessary changes, but subject to such orders of the Board to abridge the time for filing of materials and for disposition of the objection as it deems necessary to minimize further delay in the proceedings.

RULE 18: ADJOURNMENTS

18.01(1) A hearing may be adjourned at the discretion of the Board upon its own motion or upon the motion of a party where that party satisfies the Board that the adjournment is required to permit an adequate hearing to be held.

(2) In deciding whether to grant an adjournment, the Board may consider one or more of the following factors:

(a) the sufficiency of the reasons advanced for the request to adjourn;
(b) the timeliness of the request;
(c) the resources of the Board;
(d) the prejudice to the parties;
(e) whether any adjournments have been granted previously;
(f) the consent of the parties; or

(g) any other relevant factor.

(3) The Board may grant adjournments on such terms and conditions as it considers advisable.

(4) Any parties seeking an adjournment shall seek the consent of the opposing party or parties before bringing a motion before the Board.

(5) If consent is obtained pursuant to Rule 18.01(4), the party seeking the adjournment shall contact the Registrar and provide evidence in writing of the request for an adjournment, the reasons for the request and the consent of the other party or parties to such adjournment. The Registrar shall then provide the request to the Board who will decide whether or not to grant the adjournment. If the Board declines to grant the adjournment, the party may seek a hearing of the request under Rule 18.01(6), with all necessary changes, as if no consent to adjournment was obtained.

(6) If the party seeking an adjournment is unable to obtain the consent of the other party or parties, the party seeking the adjournment may:

(a) request a motion to determine the issue by filing a notice of motion pursuant to Rule 10; or

(b) request that the adjournment issue be determined at the beginning of the hearing if it is impractical to schedule a separate motion prior to the hearing. Notice of such an adjournment request should be given to the other parties and the Registrar at the earliest possible time prior to the hearing.

(7) The Board may, in its discretion, refuse an adjournment even though the parties consent.

(8) Any determination or order of the review panel with regard to adjournments constitutes a determination or order of the Board. Any determination or order of the person presiding over a motion regarding an adjournment constitutes a determination or order of the Board.

RULE 19: DECISIONS AND ORDERS

Findings of Fact

19.01 The findings of fact of the review panel pursuant to a hearing shall be based exclusively on evidence admissible, or matters that may be noticed, under sections 15 and 16 of the Statutory Powers Procedures Act.

Interim Decisions and Orders

19.02(1) The Board or the review panel may make interim decisions and orders.

(2) The Board or the review panel may impose such conditions on an interim decision or order as it considers just.

(3) An interim decision or order need not be accompanied by reasons.

(4) The Board or the review panel shall promptly notify all parties to a proceeding of any interim order or decision.
**Review Panel - Majority Determination; Participation in Decision**

19.03(1) The review panel shall hear and determine the matters before it at a hearing.

(2) The final determination of a matter before a review panel shall be by majority vote, and if there is a tie vote, the chair of the review panel's vote shall decide the matter.

(3) A decision, determination or order of the review panel constitutes a decision, determination or order of the Board.

(4) No member of the review panel shall participate in a decision of the review panel following a hearing unless he/she was present throughout the hearing and heard the evidence and argument of the parties.

**Orders of the Review Panel**

19.04(1) The review panel may, as an order of the Board, make any order authorized under the Act that it considers appropriate, including, any one or more of the orders listed under section 11 of Schedule 1 to the Act, subject to any restrictions and limitations provided in that section.

**Timing of Order and Reasons**

19.05 The review panel shall make its decisions or orders, with written reasons, on the matters to be determined by it at a hearing within 30 business days of the close of submissions, or within such other time period as may be prescribed by the Act.

**Notice of Decision**

19.06(1) The Board shall send each party who participated in the proceeding, or the party’s counsel or agent, a copy of the final decision or order of the review panel, and the written reasons therefor:

   (a) by regular lettermail;

   (b) by electronic transmission;

   (c) by telephone transmission of a facsimile; or

   (d) by any other method described in Rule 7.03(2) that allows proof of receipt.

(2) If the copy is sent by regular lettermail, it shall be sent to the most recent addresses known to the Board and shall be deemed to be received by the party on the fifth day after the day it is mailed.

(3) If the copy is sent by electronic transmission or by telephone transmission of a facsimile, it shall be deemed to be received on the day after it was sent, unless that day is a holiday, in which case the copy shall be deemed to be received on the next day that is not a holiday.

(4) If the copy is sent by any other method described in Rule 7.03(2), the said Rule shall govern its deemed day of receipt.

(5) If a party that acts in good faith does not, through absence, accident, illness or other cause beyond the party’s control, receive the copy until a later date than the deemed day of receipt, Rule 19.05(2), (3) or (4), as the case may be, does not apply.
**Enforcement of Orders**

19.07(1) A certified copy of the review panel’s decision or order in a proceeding may be filed in the Ontario Superior Court of Justice by the Board or by a party after the time in which an appeal under Rule 22.01(2) may be made, and on filing shall be deemed to be an order of that court and is enforceable as such.

(2) A party who files an order under Rule 19.07(1) shall notify the Board within 10 days after the filing.

(3) On receiving a certified copy of the review panel’s order for the payment of money, the sheriff shall enforce the order as if it were an execution issued by the Ontario Superior Court of Justice.

**Report to College**

19.08 Where the Board is of the opinion, based on a hearing, that the physician who is the subject matter of the hearing may have committed an act of professional misconduct or may be incompetent or incapacitated, the Board shall file a report with the Registrar of the College of Physicians and Surgeons of Ontario.

**RULE 20: COSTS**

**Order for Costs**

20.01(1) Subject to the Act, the Board may make an order that costs be awarded to either party in accordance with these Interim Rules and the Act.

(2) Where the Board finds that a party has acted unreasonably, frivolously, vexatiously, or in bad faith, the Board may, on its own initiative or upon the request of any other party, order that party to pay the costs of another party or parties.

(3) The Board may, on its own initiative or upon the request of a party, award costs for any other reason and on any other basis it deems just and appropriate.

**Request for Costs and Submissions as to Costs**

20.02(1) Where a party believes that another party has acted unreasonably, frivolously, vexatiously or in bad faith or that it would be just and appropriate for the Board to award costs to such party, the party may make a request for costs. The request for costs shall be made before the end of the hearing. The party requesting costs shall state the grounds for the request and the amount being requested. Supporting invoices or receipts for the expenses being claimed must be filed with the Board within five (5) days after the end of the hearing and served on all parties.

(2) The Board may, on its own initiative, request submissions from the parties on the matter of costs.

(3) The Board may adjourn the matter for submissions from the parties with respect to costs or may rule on the issue of costs at the time of the request.

(4) The Board may deny or grant the request for costs, or award a different amount.
“Unreasonable, Frivolous, Vexatious or Bad Faith”

20.03(1) For the purposes of this Rule, “unreasonable, frivolous, vexatious or bad faith conduct” may include but is not limited to:

(a) failing to attend a hearing day or to send a representative when properly served with a notice;

(b) failing to give adequate notice or explanation for:
   (i) changing a position taken in a pre-hearing conference or in disclosure;
   (ii) introducing issues not already identified or giving evidence on issues that the party did not previously dispute; or
   (iii) failing to call evidence on an issue the party raised in a pre-hearing conference;

(c) failing to co-operate with other parties during the proceedings;

(d) failing to comply with a procedural order or direction of the Board;

(e) continuing to deal with issues which the Board has determined are irrelevant;

(f) continuing to ask questions which are unduly repetitive or that the Board has determined are irrelevant;

(g) failing to make reasonable efforts to combine intervention with that of similarly interested parties;

(h) addressing the other parties and/or the Board rudely or disrespectfully, or acting in a disorderly manner;

(i) unreasonably maligning or slurring the character of another party;

(j) asking for adjournments or delays without justification;

(k) failing to prepare adequately for the hearing;

(l) taking unnecessary steps in a proceeding;

(m) initiating a proceeding frivolously, vexatiously, or in bad faith;

(n) calling a witness that the party knows will give false or misleading evidence; and

(o) knowingly presenting false or misleading evidence.

(2) If the party requesting costs has also conducted him or herself in an unreasonable manner, the Board may decide not to award costs or may reduce the amount awarded. The Board is not bound to award costs against a party by reason of any unreasonable, frivolous, vexatious or bad faith conduct of such party.

Costs Defined

20.04(1) “Costs” means a party’s out-of-pocket expenses, including the following eligible expenses:

(a) legal and consulting fees;

(b) travel and related expenses;

(c) transcripts, photocopying, facsimile, delivery costs, applicable taxes; and

(d) other necessary and reasonable disbursements.
In the table below, the Board has established maximum levels for legal and consulting fees and disbursements. Parties should not assume they will recover all of their disbursements or receive full indemnification for legal or consulting fees through a costs award. The Board may make adjustments based on the criteria outlined in these Interim Rules. Based on the circumstances of each case, the Board will determine the scope of the costs and whether the commencement date for work billed may precede the date of the Notice of Hearing. Costs for preparing and presenting the costs application itself are available only where the party's costs claim is reasonable.

Table

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<thead>
<tr>
<th>Legal Fees</th>
<th>Maximum Rates</th>
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<tbody>
<tr>
<td>Senior Counsel (&gt;10 yrs. experience)</td>
<td>$ 290/hr</td>
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<tr>
<td>Intermediate Counsel (5-10 yrs exp.)</td>
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</tr>
<tr>
<td>Junior Counsel (&lt;5 yrs exp.)</td>
<td>$ 170/hr</td>
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<tr>
<td>Paralegal or Articling Student</td>
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Consulting Fees

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<th>Consulting Fees</th>
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<td>Senior Consultant (&gt;10 yrs. experience)</td>
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<td>Intermediate Consultant (5-10 yrs exp.)</td>
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Disbursements

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<td></td>
<td>41.00¢/km for northern Ontario</td>
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<td>Photocopies/facsimile</td>
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The claimable fees and disbursements are based on current rates and updated rates are available from the Board. The cost of hotel accommodation (if the hearing lasts more than one day) and meals will normally be allowed when the claimant is located more than 99 kilometres from the hearing site. Reasonable claims for public transit, taxi or airport limousine travel are acceptable. Reimbursements for air and rail travel and reasonable compensation for travel time will be considered when the claimant is located more than 99 kilometres from the site of the proceeding and the attendance of the claimant is necessary.

Interest Rate

Unless ordered otherwise, awards of costs shall bear interest in the same manner as those made under section 129 of the Courts of Justice Act.

(2) Expenses may be claimed only for the additional hearing time resulting from the unreasonable conduct of a party.

(3) In deciding the amount of a cost award, the Board may also take into consideration the party's ability to pay and the seriousness of the misconduct.

(4) Parties may also claim costs for economic loss resulting from the unreasonable conduct of another party.
Restriction

20.05(1) Notwithstanding anything to the contrary contained in this Rule, the Board has no power to award costs against a physician unless there has been a finding by the Board that one or more of the following apply:

(a) The physician unreasonably failed to provide information or produce records.
(b) The physician unreasonably failed to co-operate with the Ministry.
(c) The physician unreasonably failed to co-operate in the proceeding before the review panel.
(d) The physician was responsible for long or frequent delays in the proceeding before the review panel.
(e) The physician failed to comply with a previous order of the Board.

RULE 21: REVIEW OF A DECISION OR ORDER

Power to Review

21.01(1) After rendering a decision or order of the Board, the Board may at any time correct a typographical error, error of calculation, ambiguity, technical error or similar error made in such decision or order without prior notice to the parties.

(2) In addition, after rendering a decision or order of the Board, the Board may, if it considers it advisable, review without a hearing and without notifying the parties, all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order.

(3) The Board shall notify the parties if it corrects, varies, suspends or cancels its decision or order under this Rule.

(4) No review by the Board on its own initiative of any decision or order shall operate as a stay of the decision or order under review, unless otherwise ordered by the Board.

(5) No review by the Board on its own initiative of any decision or order shall be made after the expiry of thirty (30) days after such decision or order is made.

Parties May Not Request a Review

21.02(1) No party to the proceeding may request the Board to review any decision or order (whether interim or final) of the Board.
RULE 22: APPEALS FROM BOARD DECISION OR ORDER

Appeals

22.01 (1) A party to the proceeding before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of that Court.

(2) The party appealing from the decision or order of the Board shall file with the Registrar and with the Divisional Court a notice of appeal within fifteen (15) business days after receiving notice of the Board’s decision or order under Rule 19.05.

(3) An appeal by a party under this Rule may be made on questions of law or fact or both.

(4) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Divisional Court the record of the hearing in which the decision or order was made, which, together with the transcript of evidence if it is not part of the Board’s record, shall constitute the record in the appeal.

Stay Pending Appeal

22.02 (1) An appeal from a decision or order of the Board to the Divisional Court operates as a stay in the matter unless:

(a) the Board orders otherwise; or

(b) the Divisional Court orders otherwise, including any order of such Court made under subsection 12(5) of Schedule 1 to the Act to lift a stay of an order made by the Board under paragraph 6 of subsection 11(1) of Schedule 1 to the Act.

(2) An application for judicial review under the Judicial Review Procedure Act, or the bringing of proceedings specified in subsection 2(1) thereof is not an appeal within the meaning of Rule 22.02(1).

(3) An appeal from or a dispute with a decision of the General Manager is not an appeal within the meaning of Rule 22.02(1) and does not operate as a stay of that decision pending any hearing before the Board on the matter.