



Interim Practice Directive 4:

Privacy, Confidentiality and Disclosure of Records

1. Purpose

This practice directive explains how the Health Professions Discipline Tribunal (Discipline Tribunal) protects privacy and confidentiality in discipline proceedings. It also explains how the Discipline Tribunal manages requests for access to documents, recordings, transcripts, and other Discipline Tribunal records.

2. Authority

The Discipline Tribunal operates under the Health Professions and Occupations Act (HPOA). When this practice directive mentions a section number, it refers to a section in the HPOA, unless it says otherwise.

The Discipline Tribunal also applies the Administrative Tribunals Act (ATA) to the extent it is incorporated by the HPOA or otherwise applies.

3. Scope and application

This practice directive applies to all discipline proceedings before the Discipline Tribunal, including:

- consent resolutions and other pre-hearing, case-management, and hearing-management steps;
- discipline hearings where the discipline panel decides whether the allegations in a citation are proven;
- applications and procedural orders made during a proceeding; and
- requests for access to Discipline Tribunal records by parties, persons with an interest in a citation or a discipline hearing, and members of the public.

This practice directive does not set out processes for:

- sensitive records (HPOA sections 188–189); see Practice Directive 17: Sensitive Records;
- protection orders and other measures for a person in vulnerable circumstances; see Practice Directive 16: Protection Orders; or



- public and media attendance rules for discipline hearings; see Practice Directive 19: Public and Media Access to Discipline Hearings.

4. Definitions

In this practice directive:

- **person with an interest** means a complainant or other person who has an interest in a citation or a discipline hearing (HPOA section 13(a)-(d)).
- **settlement information** has the meaning set out in the HPOA. It means information or a record exchanged between a regulatory college (College) and a respondent about a proposed order under the HPOA's consent-resolution or restorative-process provisions.
- **public version** means a version of a document suitable for public access with confidential information or other confidential material removed or anonymized.
- **confidential version** means a version of a document filed with the Discipline Tribunal and served on parties that contains confidential information or other confidential material and may include redactions made to comply with an order or statutory restriction.

5. Handling confidential material

5.1 File a confidential version and a public version

If a party files a document that contains confidential information or other confidential material, the party must:

- file a confidential version for use in the proceeding; and
- file a proposed public version that removes or anonymizes confidential information and other confidential material, unless the party cannot reasonably create one.

A confidential version:

- may include narrow redactions only to comply with an order or statutory restriction; and
- must include the information needed to prove or respond to an allegation.

A proposed public version:

- must remove or anonymize confidential information and other confidential material; and



- may use non-identifying references (for example, initials or role descriptors) for patients and other third parties.

Common public-version redactions include:

- personal health numbers;
- personal home addresses;
- personal phone numbers;
- personal email addresses;
- names of patients and other third parties; and
- details that would identify a witness protected by order.

5.2 Label confidential material

Label any confidential version as required by Practice Directive 1: Filing and Service (see the heading "Information to include with every filing").

The label must include:

- a clear confidentiality label; and
- a brief explanation (for example, "CONFIDENTIAL - health information").

5.3 Public versions and Discipline Tribunal directions

The Discipline Tribunal may revise, approve, or direct changes to a proposed public version before providing public access.

If a party cannot reasonably create a proposed public version, the party must:

- file the confidential version;
- file the best available proposed public version (if any); and
- explain the limitation.

The Discipline Tribunal may give directions, including directions about the form of any public version.

5.4 Service

Serve the confidential version on the other parties as required by Practice Directive 1: Filing and Service and any order or direction.



Do not serve a proposed public version unless the Discipline Tribunal directs otherwise.

5.5 Redactions

A party may redact confidential information or other confidential content where needed, including to comply with an order or statutory restriction.

If a party believes another party's redactions prevent a fair process, the party may bring an application asking for an order requiring disclosure of the unredacted information.

The application must include:

- which redactions create unfairness;
- why unredacted disclosure is necessary;
- any proposed alternatives to the redactions (for example, using initials instead of full anonymization); and
- any proposed conditions on access (for example, counsel-only).

The Discipline Tribunal may order unredacted disclosure if satisfied it is necessary for procedural fairness. The discipline panel may impose limits or conditions.

5.6 No public redistribution

Parties must not publish, post, or otherwise share confidential versions of materials (including exhibits and hearing records) outside the discipline proceeding.

5.7 Settlement information

A person must not disclose or be compelled to disclose settlement information for the purposes of a discipline hearing unless the College and the respondent consent.

If the Director receives a College notice about a respondent's refusal to consent to a resolution or a failure to comply in good faith with a restorative-process order, the Director may disclose it to the discipline panel for the discipline hearing. (HPOA sections 267(4), 181(3)).

6. When a confidentiality order is required

Bring a request that requires a hearing chair or discipline panel order under the heading "Confidentiality orders" in section 7 of this practice directive.

Preparing and filing confidential and public versions under section 5 does not, by itself, require an order unless a dispute arises.



7. Confidentiality orders

7.1 When an order is required

A confidentiality order is required when a party or participant asks the hearing chair or discipline panel to restrict who may access specified information or material, or to impose conditions on its use or disclosure, beyond the standard practice of filing a confidential version for the proceeding and a public version for public access.

In deciding whether to make an order, the hearing chair or discipline panel uses the least restrictive measure that addresses the confidentiality concern and preserves procedural fairness.

7.2 Who may apply

The following persons may apply for a confidentiality order:

- a party; or
- a person with an interest (including a complainant) who is participating in the proceeding, where the application relates to that participation.

7.3 Application requirements

An application for a confidentiality order must be made in writing unless the hearing chair or discipline panel permits an oral application at a hearing management conference or during a hearing.

Bring a written application in accordance with Practice Directive 14: Hearing Management Conferences and Pre-hearing Applications, unless the hearing chair or discipline panel directs otherwise.

In addition to the materials required for an application under that practice directive, the application must include:

- the specific order or direction sought;
- the facts relied on;
- an explanation of why the order is needed; and
- an explanation of why a less restrictive option does not address the confidentiality concern.

Where relevant, include proposed wording for any public version and any proposed conditions on access, use, or disclosure.



File and serve application materials in accordance with Practice Directive 1: Filing and Service and any directions of the hearing chair or discipline panel.

If the hearing chair or discipline panel permits an oral application, the hearing chair or discipline panel gives directions about process and requirements, including any written materials to be filed.

8. Disclosure of hearing records (HPOA section 247)

8.1 Hearing records

Hearing records are the complaint and investigation materials the College gives the Director when the College asks the Director to issue a citation (sections 137 and 247).

Hearing records may include:

- the regulatory complaint;
- the investigation file, including key records such as the investigation committee's assessment notice, investigator reports, and any investigation orders with reasons; and
- any relevant identity protection order.

The registrar of the College must give copies of hearing records that the registrar considers necessary for the recipient's participation in the discipline hearing to:

- the respondent; and
- a complainant or other person with an interest in a citation or a discipline hearing, if the complainant or person requests copies.

8.2 Timing for hearing records packages

The College must complete the steps set out in section 8.1 within 15 days after the citation is served. The College must also provide disclosure of any new information that forms part of a hearing record on an ongoing basis as they receive it.

8.3 Director authorization for disclosure of protected information

If the hearing records that the College must give under section 8.1 include protected information other than investigation information described in section 247(3)(a), the College must request authorization for disclosure from the Director under section 247(4) within 15 days after the citation is served.



8.4 Extension requests

The College may request in writing that the Director extend the 15-day period in section 8.2 or 8.3.

An extension request must:

- be sent before the 15-day period ends;
- state the reasons for the request; and
- propose the new deadline.

9. Public access to records from a discipline proceeding

9.1 General approach

This section addresses public access to public versions of records from a discipline proceeding. It does not create a right of access to hearing records.

The Discipline Tribunal may provide public access to records from a discipline proceeding in public versions, subject to:

- statutory restrictions on disclosure;
- orders and directions (including confidentiality orders and protection orders); and
- procedural fairness and the integrity of the process.

The Discipline Tribunal may refuse a request or postpone access until it can prepare or approve a public version.

9.2 Public requests for records from a discipline proceeding

A member of the public seeking access to records from a discipline proceeding must send a request in writing to the Discipline Tribunal.

The request must include:

- the file number (if known);
- the hearing date(s) or date range, where relevant;
- a description of the record(s) requested (or the category of records, if specific titles are not known);
- the purpose of the request (if any); and



- contact information for follow-up.

9.3 How the Discipline Tribunal processes a request

The Discipline Tribunal reviews the request. It may:

- provide readily available records (for example, public decisions);
- ask the requester to narrow or clarify the request;
- consult parties if privacy, confidentiality, or fairness concerns arise;
- refer the request to a discipline panel for directions;
- provide public versions of records from the proceeding;
- impose conditions on access; or
- refuse the request.

9.4 Typical records available on request

Subject to any confidentiality order or statutory restriction, the Discipline Tribunal may provide public access to:

- notices of hearing and scheduling notices;
- procedural orders, decisions, and written reasons (public versions);
- public versions of written submissions and application materials; and
- public versions of exhibits entered into evidence, if available.

The Discipline Tribunal will not provide access under this practice directive to internal Discipline Tribunal working materials (for example, panel notes, draft reasons, or internal deliberation materials).

9.5 Requests under FOIPPA

Documents held by the Discipline Tribunal that are not part of a proceeding record are normally covered by the Freedom of Information and Protection of Privacy Act (FOIPPA).

To request these types of documents, send an email, citing FOIPPA, to the Discipline Tribunal at tribunal@hporoo.ca.

FOIPPA governs the process for those requests, including timelines, fees, and review rights.



10. Recordings and transcripts

10.1 Official recording and transcript

The Discipline Tribunal may make an official audio recording of an oral hearing and may arrange for the preparation of an official transcript.

10.2 Requests for copies of recordings or transcripts

A party, a person with an interest, or a member of the public seeking access to a recording or transcript must send a request in writing to the Discipline Tribunal.

The Discipline Tribunal may:

- provide access, with or without conditions;
- require payment of any applicable preparation or copying costs;
- require limits on use; or
- refuse access where the HPOA, another enactment, an order, or fairness considerations require.

10.3 Transcript not yet prepared

If no transcript exists, a party may arrange and pay to have a transcript prepared, subject to any order or direction about confidentiality, access, use, or further disclosure.

Unless the Discipline Tribunal orders otherwise, a transcript prepared under this section is not the official transcript of the proceeding.