



## **Interim Practice Directive 16: Protection Orders**

### **1. Purpose**

This practice directive explains how the Health Professions Discipline Tribunal (Discipline Tribunal) considers and decides requests for protection orders under sections 183 to 186 of the Health Professions and Occupations Act (HPOA).

This practice directive sets out:

- when and how protection orders may be requested;
- the statutory factors a discipline panel must consider;
- the types of protection orders a discipline panel may make; and
- how protection orders affect procedural fairness, public access, and confidentiality.

### **2. Authority**

The Discipline Tribunal operates under the HPOA. When this practice directive mentions a section number, it refers to a section of the HPOA, unless it says otherwise.

### **3. Scope and application**

This practice directive applies after the Director issues a citation, and once a discipline panel is appointed to conduct the discipline hearing. Only a discipline panel may make a protection order.

This practice directive applies to:

- parties (regulatory colleges and respondents);
- complainants and other persons with an interest recognized under the HPOA; and
- witnesses and other participants in a discipline hearing.

A discipline panel may consider and make a protection order:

- during the hearing management process; or
- during the discipline hearing.

Requests for accessibility measures and accommodations are addressed under Practice Directive 3: Accessibility and Accommodations.



## **4. Definitions**

In this practice directive:

- **Protection order** means an order made by a discipline panel to reduce the risk of trauma to a person in vulnerable circumstances during a discipline hearing.
- **Person in vulnerable circumstances** means a person whose circumstances raise concerns about trauma in an adversarial hearing process.

## **5. Statutory framework**

Sections 183 to 186 of the HPOA set out the statutory framework for protection orders in a discipline hearing.

### **5.1 Consideration of vulnerable circumstances (section 183)**

A discipline panel must consider whether a person affected by the hearing is in vulnerable circumstances, and if so, consider:

- the person's circumstances and needs;
- whether a protection order is needed, having regard to the statutory factors in section 184; and
- submissions requested from affected persons or a person with an interest.

A discipline panel may give directions about how submissions on a proposed protection order are made to reduce potential trauma.

### **5.2 Statutory considerations (section 184)**

In deciding whether to make a protection order, the discipline panel must consider the factors set out in section 184 of the HPOA, including:

- whether the person directly experienced the alleged conduct, or is closely connected to someone who did;
- the trauma the person has suffered, assuming the allegations are true for this purpose, and the risk of further trauma if no order is made;
- whether and how the proposed order would reduce the risk of trauma; and
- how the proposed order would affect procedural fairness and the respondent's ability to present a full and reasonable defence.



Any protection order must be proportionate to the identified trauma risk and must not undermine the fairness or integrity of the proceeding.

### **5.3 Additional safeguards when excluding the respondent (sections 185 and 186)**

A discipline panel must not exclude a respondent from attendance because of a protection order unless:

- the respondent is represented by a lawyer or, if the respondent has no lawyer, by a person appointed by the discipline panel for that purpose; and
- the discipline panel is satisfied that the respondent is not unfairly prevented from presenting a full and reasonable defence.

## **6. Who may request a protection order and when**

A protection order request may be made by:

- the regulatory college; or
- a person in vulnerable circumstances.

A discipline panel may make a protection order on its own initiative.

File a protection order request as a pre-hearing application in accordance with Practice Directive 14: Hearing Management Conferences and Pre-hearing Applications, unless the discipline panel gives different directions or the need arises during the hearing.

File the request as soon as reasonably possible. If the request is filed close to the hearing date, include:

- an explanation of why the need arose late; and
- any impact on scheduled hearing dates.

## **7. Materials required for a protection order request**

A party or applicant filing a protection order request must include:

- the order sought;
- the facts supporting the request and the trauma risk the order is intended to address;
- whether the order applies to part or all of the hearing;



- any confidentiality restrictions sought for supporting materials; and
- the other party's position, if known, and, if contested, why the order remains necessary.

The discipline panel may request additional information needed to decide the request.

### **8. Types of protection orders (non-exhaustive)**

A discipline panel may make protection orders about attendance at the hearing, including:

- directing how a person participates in a remote hearing, for example by video, telephone, or audio only;
- excluding a person from all or part of the hearing, including from a virtual hearing room;
- using arrangements that limit visual or auditory contact between participants, for example separate virtual rooms or disabling video; and
- permitting a support person or companion animal to be present.

A discipline panel may control how a person is questioned at the hearing, including:

- requiring some or all cross-examination to be in writing;
- directing that cross-examination be conducted by a lawyer or another person appointed by the panel, instead of by the respondent personally;
- limiting questioning that is repetitive, abusive, or otherwise inappropriate, including ending the questioning where necessary; and
- admitting a sworn written statement or affidavit without requiring the person to be cross-examined.

### **9. Public access and confidentiality**

Discipline hearings are open to the public unless the discipline panel orders otherwise under the HPOA.

A protection order does not automatically restrict public access beyond what is necessary to reduce trauma and ensure fairness.

The discipline panel decides requests to restrict access to protection-order materials or supporting information in accordance with Practice Directive 4: Privacy, Confidentiality and Access to Records.



## Health Professions Discipline Tribunal

The Discipline Tribunal manages public and media access under Practice Directive 19:  
Public and Media Access to Discipline Hearings.

