



Interim Practice Directive 20: Disciplinary Orders, Hearing Costs, Post-hearing Submissions and Corrections

1. Purpose

This practice directive explains:

- how a discipline panel manages disciplinary orders after liability is decided;
- how a discipline panel manages requests for hearing costs;
- when and how post-hearing written submissions may be filed; and
- how a party may request a correction or clarification of a final decision.

2. Authority

The Health Professions Discipline Tribunal (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 a discipline hearing and any related post-hearing steps where the discipline panel must decide one or more of the following:

- whether to dismiss the citation or make one or more disciplinary orders after finding that the respondent lacks competence or committed misconduct under section 191;
- whether to make a hearing costs order after the hearing under sections 191(4) and 272;
- whether to permit or require post-hearing written submissions on liability or another issue arising from the hearing; and
- whether to correct or clarify a final decision under ATA section 53 as applied by section 193 of the HPOA.



The Discipline Tribunal may vary the process set out in this practice directive in a particular case.

4. Definitions

In this practice directive:

- **party** means the regulatory college (College) or the respondent.
- **post-hearing submission** means a written submission that the discipline panel permits or directs after the close of evidence or after oral submissions.

5. Disciplinary orders

5.1 Orders under section 191

If the discipline panel decides the respondent lacks competence or committed an act of misconduct, it must do one of the following under section 191:

- dismiss the citation, if a disciplinary order is not appropriate in the circumstances; or
- make one or more disciplinary orders described in Division 4 of Part 5.

The discipline panel may address disciplinary orders:

- immediately after deciding liability;
- on one or more later hearing dates; or
- through written submissions, with or without further oral submissions.

5.2 Record for disciplinary orders

Unless the discipline panel directs otherwise:

- evidence already received in the hearing becomes part of the record for disciplinary orders; and
- a party must not re-file material already in the hearing record.

Unless the discipline panel directs otherwise, a party must not disclose the respondent's discipline history (including past disciplinary outcomes) to the discipline panel until the discipline panel has decided liability.



5.3 Directions about disciplinary orders

The discipline panel may give directions about disciplinary orders, including directions about:

- whether any further evidence may be filed;
- the timing and sequence of evidence and submissions;
- whether authorities or prior decisions on the appropriate disciplinary order are required;
- whether the issue will be addressed orally, in writing, or both; and
- whether a complainant or other person with an interest may provide written views, and on what terms.

5.4 Documents and submissions for disciplinary orders

If the discipline panel needs further documents or submissions to decide disciplinary orders, it may direct a party to file and serve some or all of the following:

- the exact order(s) sought, with the statutory basis identified;
- written submissions on the factors the decision maker must or may consider under sections 265 to 267;
- references to the evidence already in the hearing record that supports the proposed order(s); and
- authorities or prior decisions on the appropriate disciplinary order.

If a party seeks to submit new evidence for disciplinary orders, it must explain why it is relevant and why it was not tendered earlier.

File and serve material under this section in accordance with Practice Directive 1: Filing and Service.

5.5 Types of disciplinary orders

Depending on the case, disciplinary orders may include one or more of the following (sections 268 to 271):

- a warning or advice, an undertaking not to repeat the conduct, or a reprimand;



- remedial or restorative orders, including education, training, anti-discrimination measures, assessments, or a restorative process order where the HPOA requires consent and the required consent has been obtained;
- orders affecting practice authority, including limits or conditions on practice authority, suspension (and post-suspension limits or conditions), revocation of practice authority, or limits or conditions on eligibility to apply for reinstatement; and
- a monetary penalty or refund order.

6. Hearing costs

6.1 Hearing costs orders (section 272)

Hearing costs are not automatic.

The discipline panel may make a hearing costs order only in the circumstances authorized by section 272.

Section 272 authorizes the following hearing costs orders:

- respondent pays all or part of the College's hearing costs under section 272(2)(a);
- respondent pays all or part of a person with an interest's hearing costs, if the discipline panel is of the opinion that the respondent's conduct has been improper, frivolous, vexatious, or abusive under section 272(2)(b); and
- the College pays all or part of the respondent's or a person with an interest's hearing costs, if the discipline panel is of the opinion that the College's conduct has been improper, frivolous, vexatious, or abusive under section 272(3).

6.2 Request requirements

A person who seeks hearing costs must raise the request:

- during the hearing, if practicable; or
- by the deadline the discipline panel sets.

Unless the discipline panel directs otherwise, a request for hearing costs must include:

- the order sought;
- the statutory basis relied on;
- the amount sought, if known;



- an itemized summary of the costs claimed, if the amount is sought at that stage;
- a concise explanation of the basis for the request; and
- if the request is based on improper, frivolous, vexatious, or abusive conduct, the conduct relied on.

File and serve a request under this section in accordance with Practice Directive 1: Filing and Service.

6.3 Determining hearing costs

The discipline panel may decide hearing costs:

- together with disciplinary orders or separately; and
- in two stages, by deciding entitlement first and amount later.

The discipline panel may direct a person seeking hearing costs to file further documents, including a bill, summary, or schedule of costs, supporting records or affidavits, and submissions on entitlement, amount, or both.

The discipline panel may refuse or reduce a claim that is excessive, insufficiently supported, or outside section 272.

7. Post-hearing written submissions on liability and other issues

The discipline panel may permit or require post-hearing written submissions on liability or another issue arising from the hearing.

Unless the discipline panel directs otherwise:

- a post-hearing submission must address only the issues identified by the discipline panel; and
- a reply must address only new matters raised in the prior submission.

If a party does not file a post-hearing submission by the deadline set, the discipline panel may proceed to decide the issue based on the record before it.

8. Form of decision and reasons

The discipline panel may issue:

- a single written decision that addresses liability, disciplinary orders, and hearing costs; or



- separate written decisions or supplementary reasons dealing with different issues in the hearing.

The usual time periods for issuing decisions and reasons are set in Practice Directive 2: Time Periods for Cases Before the Discipline Tribunal.

9. Corrections and clarifications (ATA section 53)

9.1 Who may apply

Only a party may apply for a correction or clarification of a final decision; a complainant or other person with an interest who is not a party may not do so.

9.2 Corrections

A party may request a correction of a final decision only to correct one or more of the following:

- a clerical or typographical error;
- an accidental or inadvertent error, omission, or similar mistake; or
- an arithmetical error made in a computation.

9.3 Clarifications

A party may apply for clarification of a final decision within 30 days after being served with it.

The discipline panel may grant the application only if it is satisfied the requested change will clarify the final decision.

9.4 How to apply

File and serve a written request for a correction or clarification that includes:

- the specific passage, paragraph, calculation, or order in the final decision the party seeks to correct or clarify;
- the wording the party proposes;
- a concise explanation of how the request fits within ATA section 53; and
- the other party's position, or the steps taken to obtain that position.

Attach a marked copy of the final decision showing the proposed change, if helpful.

File and serve the request in accordance with Practice Directive 1: Filing and Service.



9.5 Limits

Do not use a request under this heading to:

- reargue the merits of the case;
- challenge findings of fact or credibility;
- seek a different disciplinary outcome because the party disagrees with the result;
- introduce new evidence; or
- seek review of the decision under section 194.

A request under this heading does not replace an application for review under section 194 and does not extend the 30-calendar-day statutory deadline for review.