



Interim Practice Directive 21: Application for Review

1. Purpose

This practice directive sets the process for:

- applying for review of one or more orders made by a discipline panel; and
- requesting a stay of one or more orders while the review is underway.

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 of 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 to Discipline Tribunal proceedings.

3. Scope and application

This practice directive applies to an application for review under section 194. Section 194 allows the respondent, a regulatory college, or the complainant to apply to the Director of Discipline (Director) for review of an order a discipline panel makes under section 191 after a discipline hearing. These include an order dismissing the citation, disciplinary orders, and any hearing costs order.

This practice directive applies to:

- the respondent (respondent);
- the regulatory college (College); and
- the complainant (complainant).

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

This practice directive does not replace the correction and clarification process under section 53 of the ATA. See Practice Directive 20: Disciplinary Orders, Hearing Costs, Post-hearing Submissions and Corrections for details on that process.



4. Review process

4.1 Who may apply and what may be reviewed

A respondent, a College, or a complainant may apply for review of an order made by a discipline panel under section 191.

An application for review may request review of more than one order.

4.2 Deadline

An applicant must file the application for review within 30 calendar days after the date the applicant receives notice of the order.

Time is calculated under Practice Directive 2: Time Periods for Cases Before the Discipline Tribunal. This deadline is set by the HPOA and cannot be extended.

4.3 Filing and service

An applicant must file and serve the application for review in accordance with Practice Directive 1: Filing and Service.

Upon receiving an application for review, the Discipline Tribunal may give directions to the applicant to serve the documents on other parties.

4.4 Contents of the application for review

The application must:

- state each order under review;
- include a brief explanation of the reasons for the review; and
- state the outcome the applicant seeks.

If the application relies on new information, it must include:

- a copy of the documentation that includes the new information;
- an explanation of why the new information is material and relevant;
- an explanation of why the new information was not available, or could not reasonably have been discovered through due diligence, before the discipline panel made the order; and
- a description of the change in circumstances and why, because of the change, the order is no longer appropriate;



- any other documents the applicant relies on that are not already part of the hearing record.

4.5 Grounds for review

The Director considers only the grounds listed below. An application for review must identify one or more of these grounds under section 381(3):

- the discipline panel made the order contrary to the HPOA or to any applicable regulation, bylaw, or rule;
- the discipline panel did not follow the principles of procedural fairness when it made the order; or
- new information is available that is material and relevant and that:
 - was not available, or could not reasonably have been discovered through due diligence, before the order was made; or
 - relates to a change in circumstances since the order was made and, because of the change, the order is no longer appropriate.

4.6 Request for a stay

An application for review does not stay the order being reviewed. The College may proceed to enforce the order.

An applicant may request that enforcement of an order be stayed or delayed. The applicant must include this request in the application for review.

A stay request must:

- identify the specific order or orders, or specific parts of an order, the applicant seeks to stay; and
- explain why a stay is appropriate in the circumstances.

Unless the Director orders otherwise, the stay request must not exceed five pages, not including attachments.

If the Director permits a stay, the Director may impose interim limits or conditions on the respondent's practice authority until the review is concluded.

A complete application for review must be filed within the 30-calendar-day statutory deadline.



4.7 Preliminary dismissal

The Director may dismiss an application for review at any time if the Director is of the opinion that the application is trivial, frivolous, vexatious, an abuse of process, or made in bad faith.

4.8 Combining applications

If more than one application for review is made in relation to the same discipline hearing, the Director may consider the applications together.

4.9 How the review proceeds

After the Discipline Tribunal accepts a complete application for review, the Director sets the review process and issues directions.

The Director may conduct the review by one or both of the following means:

- written submissions from the respondent, the College, and the complainant; and
- an oral hearing.

If the Director invites written submissions, the Director's directions will set:

- who may file written submissions;
- the deadline for submissions and any reply;
- page limits; and
- any additional documents the parties may file for the review.

If the Director directs a review hearing, the Director's directions will set:

- the hearing format, whether oral, written, or a combination of both;
- the date, time, and hearing platform;
- the issues the parties must address; and
- any additional documents the parties may file for the review.

Unless the Director orders otherwise, any oral hearing is virtual.

4.10 Decision after review

The Director must decide whether to:

- dismiss the application and confirm the order under review;



- grant the application for review and confirm, vary, rescind, or terminate the order under review;
- grant the application for review and rescind the order under review and substitute a new order; or
- grant the application for review and refer the matter back to the discipline panel for reconsideration, with or without directions.

4.11 Notice of outcomes

The Director gives notice of the review process, and of any decision on an application for review, to persons with an interest in a citation or a discipline hearing, in accordance with section 248(1)(b)(ii) and (c).