

Bylaws of the College of Dental Surgeons of British Columbia

PART 10 – INVESTIGATION AND DISCIPLINE

Disposition of complaints by registrar

10.01 The registrar is authorized to act under section 32(3) of the Act.

Undertakings and consents

- 10.02** (1) The record of an undertaking or consent given under section 36 of the Act, a consent order under section 37.1 of the Act, or an agreement under section 32.2(4)(b) or 32.3(3)(b) of the Act must
- (a) include any consent to a reprimand or to any other action made by the respondent under section 32.2(4)(b), 32.3(3)(b), 36 or 37.1 of the Act,
 - (b) include any undertaking made by the respondent under section 36 of the Act,
 - (c) specify the length of time that an undertaking specified in paragraph (b) is binding on the respondent,
 - (d) specify the procedure that the respondent may follow to be released from an undertaking specified in paragraph (b), and
 - (e) subject to sections 22 and 39.3 of the Act and sections 5.04, 7.04 and 10.05, specify what notification and disclosure of the limits or conditions of the undertaking, consent, order or agreement may be given to others, including members of the public.
- (2) If an undertaking or consent given under section 36 of the Act, a consent order under section 37.1 of the Act, or an agreement under section 32.2(4)(b) or 32.3(3)(b) of the Act requires the respondent to take any corrective or remedial action, the inquiry committee may direct the registrar
- (a) to monitor the respondent's compliance with that requirement and
 - (b) to report periodically to the chair or vice-chair of the inquiry committee regarding the respondent's compliance with that requirement.

Citation for discipline hearing

- 10.03** (1) Before the issuance of any citation under section 37 of the Act, on the direction of a panel of the inquiry committee, the registrar may join one or more complaints or other matters which are to be the subject of a discipline hearing in one citation as the panel considers appropriate in the circumstances.
- (2) After the issuance of a citation or citations under section 37 of the Act, on the direction of a panel of the discipline committee, the registrar may, as the panel considers appropriate in the circumstances,

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- (a) join one or more complaints or other matters which are to be the subject of a discipline hearing,
 - (b) sever one or more complaints or other matters which are to be the subject of a discipline hearing, or
 - (c) amend a citation.
- (3) If a citation is amended under subsection (2)(c) before a discipline hearing, the amended citation must be delivered to the respondent by personal service or sent by regular mail to the respondent at the last address for the respondent recorded in the register referred to in section 21(2) of the Act not fewer than 14 days before the date of the hearing.
- (4) If a citation is amended under subsection (2)(c) before a discipline hearing and the amended citation changes the date, time or place of the hearing, the registrar must notify any complainant of the amendment not fewer than 14 days before the date of the hearing.
- (5) If a respondent is a certified dental assistant, the references in subsection (3) and in section 37(2) of the Act to section 21(2) of the Act must be read as references to section 7.04(1).

Hearings of discipline committee

- 10.04** (1) No member of the discipline committee may sit on the panel hearing a matter in which the discipline committee member
- (a) was involved as a member of the inquiry committee, or
 - (b) has had any other prior involvement.
- (2) Information about the date, time and subject matter of the hearing must be provided to any person on request.
- (3) The discipline committee must provide notice by registered mail or by personal service to a person who is required to attend a hearing under section 38(6) of the Act in Form 27.
- (4) All discipline hearings must be recorded and any person may obtain, at the person's own expense, a transcript of any part of the hearing which the person was entitled to attend.

Notice of disciplinary action

- 10.05** (1) In addition to any notification required under section 39.3 of the Act with respect to any of the actions referred to in section 39.3(1)(a) to (e) of the Act, the registrar
- (a) must notify all dentists and certified dental assistants,

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- (b) must notify
 - (i) the regulatory bodies governing the practice of dentistry in every other Canadian jurisdiction, and
 - (ii) if the action is taken in respect of a certified dental assistant, the regulatory bodies governing the provision of the services of certified dental assistants in every other Canadian jurisdiction, and
 - (c) may notify any other governing body of a health profession inside or outside of Canada.
- (2) Notification provided to all dentists and certified dental assistants under subsection (1)(a)
- (a) must include all information included in the public notification under section 39.3 of the Act, and
 - (b) unless otherwise directed by the inquiry committee or the discipline committee, as the case may be, must exclude any information withheld from the public notification under section 39.3(3) or (4) of the Act.
- (3) Unless otherwise directed by the inquiry committee or the discipline committee, as the case may be, notification provided to other regulatory or governing bodies under subsection (1)(b) or (c) may include information that has been withheld from the public notification under section 39.3(3) or (4) of the Act.

Effect of suspension

- 10.06** (1) During any period of suspension of registration or certification, a suspended dentist or certified dental assistant must
- (a) not engage in the practice of dentistry, provide the services of a certified dental assistant, or hold themselves out as a dentist or certified dental assistant,
 - (b) not hold office in the college,
 - (c) not make appointments for patients or prospective patients,
 - (d) not contact or communicate with patients or prospective patients, except for the purpose of
 - (i) advising a patient or prospective patient of the fact and duration of the suspension,
 - (ii) advising a patient or prospective patient that another dentist or certified dental assistant will continue to act or provide services in the place of the suspended dentist or certified dental assistant, or
 - (iii) referring a patient or prospective patient to another dentist or certified dental assistant in good standing,

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- (e) prominently display, if required by an order under section 35, 37.1, 38, 39 or 39.1 of the Act, an agreement under section 32.2(4)(b) or 32.3(3)(b) of the Act, or other action taken under section 33(2) of the Act, a notice of suspension in a form and in an area approved by the registrar, which states the duration and reasons for the suspension,
 - (f) immediately surrender to the registrar the certificate of registration or the certified dental assistant certificate issued to the dentist or certified dental assistant under section 6.18 or 7.11, and any current registration card or certification card issued to the dentist or certified dental assistant under section 6.20 or 7.13, and
 - (g) pay any fee required by the college when due in order to remain a dentist or certified dental assistant, and any other outstanding fine, fee, debt or levy owed to the college.
- (2) No current or former dentist or certified dental assistant is entitled to any refund of any fine, fee, debt or levy paid to the college solely on the basis that it was paid during or in relation to a period of suspension.
- (3) During the period of suspension, a suspended dentist may permit another dentist in good standing to practise or provide services within premises where the suspended dentist practised dentistry, provided that the suspended dentist
- (a) complies with subsection (1), and
 - (b) must not, directly or indirectly, receive any payment in respect of services provided by the other dentist under this subsection.
- (4) Any communication under subsection (1)(d) may be made in writing in a form approved in advance by the registrar, or by employing office staff, an answering service, or other telephonic device specifically for that purpose.

Fines

10.07 The maximum amount of a fine that may be ordered by the discipline committee under section 39(2)(f) of the Act is \$50,000.

Costs

- 10.08** (1) The tariff of costs set out in Schedule G, to partially indemnify the college for investigations under section 33 of the Act, is hereby established pursuant to section 19(1)(v.1) of the Act.
- (2) The tariff of costs set out in Schedule H, to partially indemnify parties for their expenses incurred in the preparation for and conduct of hearings under section 38 of the Act, is hereby established pursuant to section 19(1)(w.1) of the Act.

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- (3) Any costs awarded by the discipline committee under section 39(4) or (5) of the Act, or by the inquiry committee under section 33(7) of the Act or in accordance with a proposal under section 37.1 of the Act, must be assessed by the applicable committee in accordance with Schedules G and H and the applicable tariff of costs set out therein.