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Important Information

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Responsible Department

SNL2005 CHAPTER H-2.01

HEARING AID PRACTITIONERS ACT

Amended:

2012 c34 s1; 2012 c35 s8; 2013 c16 s25; 2014 c7 s8; 2016 c25

CHAPTER H-2.01

**AN ACT RESPECTING THE REGISTRATION AND LICENSING OF
HEARING AID PRACTITIONERS**

(Assented to December 13, 2005)

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Hearing Aid Practitioners Act*.

2005 cH-2.01 s1

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Definitions

2. In this Act

- (a) "board" means the Hearing Aid Practitioners Board;
- (b) "hearing aid" means a wearable instrument or device designed for or offered for the purpose of helping or compensating for impaired human hearing and parts, attachments or accessories for the instrument or device except batteries and cords;
- (c) "hearing aid practitioner" means a person engaged in
 - (i) testing or measuring human hearing by audiometer or other means for the purpose of selecting, adapting, recommending or selling hearing aids,
 - (ii) selling or offering for sale hearing aids, or
 - (iii) making impressions for earmolds to be used in connection with hearing aids;

- (d) "licence" means a licence issued under this Act to operate in the province as a hearing aid practitioner;
- (d.1) "licensed hearing aid practitioner" means a hearing aid practitioner licensed under this Act;
- (e) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (f) "register" means the register of hearing aid practitioners;
- (g) "registrar" means the registrar of hearing aid practitioners elected under subsection 3(3); and
- (h) "sale" means a transfer of title, conditional sale contract, lease, hire purchase, or other transaction by which a person disposes of, and another person acquires, a hearing aid, but does not include a sale of a hearing aid which is intended for resale by a hearing aid practitioner in the course of his or her business.

2005 cH-2.01 s2; 2016 c25 s1

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Board

3. (1) The Hearing Aid Practitioners Board is continued as a corporation without share capital for the purposes of Part XXI of the *Corporations Act* .

(2) The board shall consist of

- (a) 4 persons elected from and by licensed hearing aid practitioners in accordance with the by-laws; and
- (b) 2 persons appointed under section 4 who are not licensed hearing aid practitioners.

(3) The board shall elect from among the members a chairperson and, from among the elected members, a registrar.

(4) A member of the board may be elected for a term set by the by-laws which shall not exceed 3 years and is eligible to be re-elected, but shall not be a member of the board for more than 9 consecutive years.

(5) An elected member may resign from the board by written notice to the board.

(6) Where an elected member resigns, dies or becomes incapable of performing his or her duties, the remaining members shall appoint a replacement to serve until the next annual general meeting.

(7) Elected members shall serve without payment for their services, but their travel and other expenses associated with their duties as members may be paid by the board, in accordance with the by-laws.

(8) The board may pay the registrar for performing his or her duties under this Act, in accordance with the by-laws.

(9) The board shall elect an executive from the members of the board including a chairperson who chairs all meetings of the board.

2005 cH-2.01 s3

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Appointed members

4. (1) The minister shall appoint 2 members of the board who are not hearing aid practitioners who are suitable to represent the public interest.

(2) A person appointed under subsection (1) holds office for a term of 3 years and is eligible to be re-appointed.

(3) Where a person appointed under subsection (1) holds office for a period of 9 consecutive years the person is not eligible for appointment as a member of the board until the expiration of 12 months from the end of the year in which he or she was last a member of the board.

(4) Where the term of office of a person appointed under this section expires, he or she continues to be a member of the board until re-appointed or replaced.

(5) The board shall pay the expenses of a person appointed to the board under this section in accordance with guidelines established by the Lieutenant-Governor in Council.

(6) A person appointed under subsection (1) may be removed from office by the minister before the expiration of his or her term of office and compensation shall not be paid to him or her other than an amount owing under subsection (5).

(7) A person appointed under subsection (1) may resign from the board by written notice to the minister.

2005 cH-2.01 s4

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Meetings of the board

5. (1) A quorum of the board is 3 members, one of whom is an appointed member.

(2) Except where prohibited in the by-laws, a member of the board may, where all the members consent, participate in a meeting of the board by means of the telephone or other telecommunication device that permits all persons participating in the meeting to communicate with each other.

(3) Where a quorum under subsection (1) exists, a majority of that number is sufficient to make a decision, and in the event of a tie the chairperson of the meeting shall cast the deciding vote.

(4) In the absence of the chairperson, the members of the board in attendance at a meeting shall appoint another member to chair that meeting.

(5) The board shall hold, in accordance with the by-laws, an annual general meeting at which the election for members of the board shall be held.

(6) At the annual general meeting the board shall appoint an auditor to audit the accounts of the board and report on the financial statements prepared by the board.

(7) The board may in its by-laws provide for voting at a meeting of the board or in an election of members by mail or electronic means.

2005 cH-2.01 s5

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Annual report

6. (1) The board shall prepare and submit to the minister before July 1,

- (a) a report on the activities of the board; and
 - (b) the board's audited financial statements.
- (2) The minister shall publish the annual report on the Health and Community Services website.
- (3) Where the board has a website, the board shall publish the annual report on its website in a manner that the annual report may be accessed by a member of the public.
- (4) Where the board fails to comply with subsection (1) or (3), the board is guilty of an offence and is liable upon summary conviction to a fine of \$1,000.

2012 c35 s8

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Functions of board

7. The functions of the board are

- (a) to examine the credentials of an applicant for registration to determine if the applicant should be registered and licensed to operate as a hearing aid practitioner in accordance with this Act and the regulations;
- (b) where it considers that examinations are necessary, to adopt or prescribe examinations to ascertain the qualifications of persons to be registered and licensed in accordance with this Act and the regulations;
- (c) to issue licences to persons who meet the requirements of this Act and the regulations;
- (d) to carry out the duties established for the board in relation to discipline of licensed hearing aid practitioners under sections 12 to 27; and
- (e) to perform the other tasks that are in keeping with the purpose of this Act.

2005 cH-2.01 s7

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By-laws

8. (1) The board may make by-laws not inconsistent with this Act respecting

- (a) the holding and procedure of its meetings;
- (b) the appointment of committees and the duties and responsibilities of those committees;
- (c) the election of members of the board under subsection 3(2) and setting the terms of office;
- (d) the payment of travel and other expenses of elected members of the board;
- (e) the rates of remuneration for members of an adjudication tribunal;
- (f) the employment and remuneration of staff and consultants;
- (g) a code of ethics which shall include
 - (i) a definition of "professional misconduct" and "conduct unbecoming" for the purposes of sections 12 to 27,

- (ii) rules respecting advertising by hearing aid practitioners, and
- (iii) rules respecting conflict of interest;
- (h) limiting the participation of members at a meeting of the board by telephone or other telecommunications device under section 5; and
- (i) providing for voting by licensed hearing aid practitioners by mail or electronic means.

(2) A by-law may be made, amended or repealed at a meeting of the board provided that 30 days' notice, in writing, of the making, amendment or repeal of the by-law and of the meeting are given to members of the board.

(3) The by-laws of the Hearing Aid Practitioners Board in operation at the coming into force of this Act shall be the by-laws governing the board until revoked or amended by the board in accordance with this section.

(4) The board shall have its by-laws available for inspection by the public on reasonable notice and at reasonable hours.

2005 cH-2.01 s8

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Registration and licence

9. (1) A person may apply to the registrar in the form set by the board to be licensed as a hearing aid practitioner where he or she

- (a) successfully completes a training program approved by the board that covers the areas of study outlined in the regulations;
- (b) successfully completes the examinations prescribed by the board; and
- (c) meets the other requirements prescribed by regulation.

(2) The registrar shall issue a licence to a person who applies under subsection (1) and enter his or her name on the register and may renew a licence of a hearing aid practitioner where the applicant or hearing aid practitioner

- (a) pays the licensing fee set by the board;
- (b) proves that he or she has obtained professional liability insurance coverage in a form and amount satisfactory to the board;
- (c) establishes that he or she is not suspended or restricted from working as a hearing aid practitioner by a board or equivalent body governing hearing aid practitioners in a jurisdiction outside the province; and
- (d) pays outstanding fines, penalties or fees, which are owed to the board.

2005 cH-2.01 s9

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Duties of registrar

10. (1) The registrar shall

- (a) register hearing aid practitioners and issue licences on the direction of the board to persons who meet the qualifications for registration established by this Act;

- (b) keep and maintain an up-to-date register of the names of hearing aid practitioners registered and licensed under this Act and the regulations and the other information the board may require;
- (c) collect the fees that may be prescribed;
- (d) perform the duties of the registrar in respect of discipline under sections 12 to 27;
- (e) act as secretary to the board; and
- (f) perform those other duties that the board may require.

(2) The registrar shall make the registers of the board available for inspection by the public on reasonable notice and at reasonable hours.

2005 cH-2.01 s10

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Proof of registration

11. A certificate signed or purporting to be signed by the registrar that the name of a person was or was not entered in the register on a date or during a period specified in the certificate shall be admissible in evidence without proof of the signature of the registrar, and the contents of the certificate shall, until the contrary is proved, be considered to be evidence of the facts stated in it.

2005 cH-2.01 s11

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Definitions

12. In this section and sections 13 to 27,

- (a) "allegation" means a written document alleging that a person has engaged in conduct deserving of sanction;
- (b) "complainant" means a person making an allegation described in section 14;
- (c) "conduct deserving of sanction" includes
 - (i) professional misconduct,
 - (ii) professional incompetence,
 - (iii) conduct unbecoming a hearing aid practitioner, and
 - (iv) acting in breach of this Act, the regulations, or the code of ethics made under section 8;
- (d) "costs incurred by the board" includes
 - (i) out of pocket expenses incurred by or on behalf of the board,
 - (ii) amounts paid by the board to adjudication tribunal members as remuneration and for expenses, and
 - (iii) the actual cost of legal council for the board and an adjudication tribunal;
- (e) "disciplinary panel" means the panel of persons appointed under section 13 from which members of an adjudication tribunal are drawn; and

- (f) "respondent" means a licensed hearing aid practitioner or a former licensed hearing aid practitioner against whom an allegation is made.

2005 cH-2.01 s12

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Committees

13. (1) The board shall appoint at least 3 of its members, at least one of whom was appointed by the minister to represent the public interest, to constitute a complaints authorization committee.

(2) The board shall appoint the chairperson and vice-chairperson of the complaints authorization committee from the persons appointed under subsection (1).

(3) The registrar is not eligible to be a member of the complaints authorization committee.

(4) The board shall appoint at least 5 persons who are not members of the board, one of whom shall be appointed to serve as chairperson, and the minister shall appoint at least 2 persons who are not hearing aid practitioners to represent the public interest, who shall together constitute a disciplinary panel.

(4.1) Where the board appoints persons under subsection (4), those persons shall be licensed hearing aid practitioners unless, in the opinion of the board, it is necessary to appoint as one or more of the total number appointed by the board under that subsection either a hearing aid practitioner licensed under the laws of a province or territory of Canada or a member in good standing under the *Law Society Act, 1999* or both of them.

(4.2) Notwithstanding subsection (4), a hearing aid practitioner licensed under the laws of a province or territory of Canada or a member in good standing under the *Law Society Act, 1999* appointed as referred to in subsection (4.1) shall not serve as the chairperson of the disciplinary panel.

(4.3) Notwithstanding subsection (4.1), the disciplinary panel shall at all times have at least 2 licensed hearing aid practitioners appointed to it.

(5) Of the members first appointed to the disciplinary panel, one half shall be appointed for a term of 2 years and the remainder for a term of 3 years and all subsequent appointments of members to the disciplinary panel shall be for a term of 3 years.

(6) Notwithstanding the expiry of his or her term, a member of the disciplinary panel continues to be a member until he or she is re-appointed or his or her replacement is appointed.

(7) Persons appointed to the disciplinary panel may be reappointed.

(8) Where a hearing aid practitioner is appointed to a disciplinary panel under this section, he or she shall serve on the panel unless the board determines that he or she is unable to serve for reasons beyond his or her control.

(9) Members of the disciplinary panel shall serve on the panel without payment for their services but may be remunerated for services as a member of an adjudication tribunal and paid for their travel and other expenses associated with the work of the tribunal by the board in accordance with the rates set by the by-laws.

(10) The complaints authorization committee and an adjudication tribunal appointed under section 17 and a person appointed by either of them may summon a hearing aid practitioner or other person and require him or her to give evidence, orally or in writing, upon oath or affirmation, and produce the documents and things that either of them considers necessary to the full investigation and hearing of an allegation or complaint and shall have the powers, privileges and immunities that are conferred on a commissioner appointed under the *Public Inquiries Act*.

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Allegation

14. (1) An allegation shall be in writing and signed by the complainant or his or her solicitor, and filed with the registrar.

(2) The registrar may on his or her own motion make an allegation and file it, and the allegation shall have the same effect as an allegation referred to in subsection (1).

(3) Where the registrar has been informed that a respondent has been convicted of an offence under the provisions of the *Criminal Code* or a similar penal statute of another country or has been suspended by a governing body of hearing aid practitioners in another province or territory of Canada or another territory or country for reason of professional misconduct, conduct unbecoming a hearing aid practitioner or professional incompetence, the information shall be dealt with by the registrar as an allegation.

(4) For the purpose of subsection (3), a certified copy of the record of a conviction or findings made or the action taken by an external regulatory body constitutes proof, in the absence of evidence to the contrary, of the conviction or findings made or the action taken by that body, without proof of the signature of the convicting justice or person purporting to have signed on behalf of that body.

2005 cH-2.01 s14

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Effect of filing allegation

15. (1) Where it appears to the registrar after notifying the respondent of the allegation that the allegation may be resolved satisfactorily and where the complainant and the respondent consent, the registrar may attempt to resolve the matter.

(2) Where the allegation is not satisfactorily resolved by the registrar under subsection (1), the registrar shall refer the allegation and all other allegations to the complaints authorization committee.

(3) The registrar shall inform a complainant and a respondent of the referral of the allegation to the complaints authorization committee.

2005 cH-2.01 s15

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Complaints authorization committee

16. (1) After an allegation has been submitted to the complaints authorization committee, the committee may exercise one or more of the following powers:

(a) refer the allegation back to the registrar for an investigation or alternative dispute resolution in accordance with the regulations;

(b) conduct an investigation itself or appoint a person to conduct an investigation on its behalf; and

(c) require the respondent to appear before it.

(2) Where the complaints authorization committee is of the opinion there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction, the committee shall dismiss the allegation and give notice in writing of the dismissal to the complainant.

(3) Where the complaints authorization committee is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint, and the committee may

- (a) counsel or caution the respondent; or
- (b) instruct the registrar to file the complaint against the respondent and refer it to the disciplinary panel; and
- (c) recommend to the board that
 - (i) the respondent's licence be suspended or restricted, or
 - (ii) the registrar conduct an investigation of the respondent's practice, and where the board approves an investigation the registrar shall conduct it,

at any time before a final determination by the adjudication tribunal.

(4) A person conducting an investigation under paragraph (1)(a), (b) or subparagraph (3)(c) (ii) may require

- (a) the respondent to
 - (i) undergo practical and other examinations he or she considers necessary and as arranged by the registrar or the board, and
 - (ii) permit the registrar or a member of the board or a person appointed by the complaints authorization committee to inspect and copy the records of the respondent and other documents relating to the subject matter of the investigation; and
- (b) another person to permit the registrar or a member of the board or a person appointed by the complaints authorization committee to inspect and copy records and other documents relating to the subject matter of the investigation held by that person,

and the respondent or other person shall comply.

(5) An action for damages does not lie against a registered hearing aid practitioner or another person to whom a request is made solely because he or she provides information requested of him or her under subsection (4).

(6) Where the registrar, a member of the board or a person appointed by the complaints authorization committee requires that a respondent or another person provide information under subsection (4), that information shall be provided, as requested, within 7 days of receipt of the request or a different period as specified in the request.

(7) Where the complaints authorization committee recommends to the board that a respondent's practice be suspended, restricted or investigated the board may

- (a) decide not to act on the recommendation; or
- (b) suspend, restrict or investigate the respondent's practice.

(8) A complainant whose allegation is dismissed by the complaints authorization committee under subsection (2) may within 30 days after receiving notice of the dismissal appeal the dismissal to the Trial Division by filing a notice of appeal with the court.

(9) Subsections (4), (5) and (6) apply to the Crown.

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Adjudication tribunal

17. (1) For the purpose of dealing with complaints referred to the disciplinary panel, the chairperson of the disciplinary panel shall appoint from it an adjudication tribunal composed of 3 persons.

(2) The members of an adjudication tribunal shall be chosen as follows from among the members of the disciplinary panel:

- (a) 2 persons who are licensed hearing aid practitioners unless, in the opinion of the chairperson of the disciplinary panel, it is necessary to appoint
 - (i) a licensed hearing aid practitioner and a hearing aid practitioner licensed under the laws of a province or territory of Canada ,
 - (ii) a licensed hearing aid practitioner and a member in good standing under the *Law Society Act, 1999* ,
 - (iii) a hearing aid practitioner licensed under the laws of a province or territory of Canada and a member in good standing under the *Law Society Act, 1999* , or
 - (iv) 2 hearing aid practitioners licensed under the laws of a province or territory of Canada ; and
- (b) one person appointed to represent the public interest.

(3) The chairperson of the disciplinary panel shall appoint either of the following persons to be the chairperson of an adjudication tribunal:

- (a) a licensed hearing aid practitioner; or
- (b) a hearing aid practitioner licensed under the laws of a province or territory of Canada .

2016 c25 s3

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Hearing

18. (1) Where a complaint has been referred under paragraph 16(3)(b), an adjudication tribunal shall hear the complaint.

(2) The parties to a hearing are the board and the respondent and a party may be represented by his or her counsel at a hearing.

(3) A hearing shall be conducted in public but an adjudication tribunal may exclude the public from a hearing, or from part of it, where it considers the desirability of protecting a party to the complaint or another person against the consequences of possible disclosure of personal matters outweighs the desirability of holding the hearing in public.

2005 cH-2.01 s18

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Guilty plea by respondent

19. (1) Where a respondent pleads guilty to one or more of the charges set out in a complaint, the adjudication tribunal shall, without calling evidence or hearing witnesses, unless the tribunal believes it is appropriate to do so, hear submissions from the parties.

(2) Where a respondent pleads guilty, and following submissions under subsection (1), the adjudication tribunal may

- (a) reprimand the respondent;
- (b) order that the respondent be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
- (c) allow or direct the respondent to surrender his or her licence to the board upon those conditions that may be considered appropriate and strike the respondent's name from the register;
- (d) impose a fine not to exceed \$10,000 to be paid to the board;
- (e) order that the respondent pay the costs or a part of the costs incurred by the board in the investigation and hearing of the complaint;
- (f) order that the registrar publish a summary of the decision including the information set out in subsection 21(4) and other information that the tribunal may specify; and
- (g) order that the respondent comply with one or more of the following:
 - (i) make restitution to the complainant or other person affected by the conduct of the respondent,
 - (ii) obtain medical treatment,
 - (iii) obtain counselling,
 - (iv) obtain substance abuse counselling or treatment, until the respondent can demonstrate to the board or other body or person designated by the adjudication tribunal that a condition related to substance abuse rendering the respondent incapable or unfit to practise has been overcome,
 - (v) engage in continuing education programs,
 - (vi) complete a course of studies or obtain supervised clinical experience, or both, to the satisfaction of the board or other body or person designated by the adjudication tribunal,
 - (vii) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,
 - (viii) restrict his or her professional practice or continue his or her practice under specified conditions, or
 - (ix) impose other requirements that are just and reasonable in the circumstances.

(3) The costs incurred by the board to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

2005 cH-2.01 s19

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Powers of adjudication tribunal

20. (1) Upon the hearing of a complaint, an adjudication tribunal shall decide whether or not a respondent is guilty of conduct deserving of sanction.

(2) Where an adjudication tribunal decides that a respondent is not guilty, it shall dismiss the complaint and may, where it believes that the submission of the complaint to the tribunal for a hearing was unreasonable,

(a) order that those costs that the tribunal considers appropriate be paid by the board to the respondent; and

(b) make another order that it considers appropriate.

(3) Where an adjudication tribunal decides that a respondent is guilty, it may

(a) reprimand the respondent;

(b) order that the respondent be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;

(c) allow or direct the respondent to surrender his or her licence to the board upon those conditions that may be considered appropriate and strike the respondent's name from the register;

(d) impose a fine not to exceed \$10,000 to be paid to the board;

(e) order that the respondent pay the costs or a part of the costs incurred by the board in the investigation or hearing of the complaint;

(f) order that the registrar publish a summary of the decision including the information set out in subsection 21(4) and other information that the tribunal may specify; and

(g) order that the respondent comply with one or more of the following:

(i) make restitution to the complainant or other person affected by the conduct of the respondent,

(ii) obtain medical treatment,

(iii) obtain counselling,

(iv) obtain substance abuse counselling or treatment, until the respondent can demonstrate to the board or other body or person designated by the adjudication tribunal that a condition related to substance abuse rendering the respondent incapable or unfit to practise has been overcome,

(v) engage in continuing education programs,

(vi) complete a course of studies or obtain supervised clinical experience, or both, to the satisfaction of the board or other body or person designated by the adjudication tribunal,

(vii) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,

(viii) restrict his or her professional practice or continue his or her practice under specified conditions, or

(ix) impose other requirements that are just and reasonable in the circumstances.

(4) The costs incurred by the board to ensure the compliance of a respondent with an order or direction of an adjudication tribunal under this section shall be borne by the respondent.

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Filing and publication of decisions

21. (1) An adjudication tribunal shall file a decision or order made under subsection 19(2) or 20(3) with the registrar and provide a copy to the complainant and the respondent and the respondent's employer.

(2) The registrar shall maintain a copy of a decision or order filed under subsection (1) for a minimum of 5 years after the day the decision is filed and shall upon receiving a request to view the disciplinary records in relation to a registered hearing aid practitioner permit a person to view a summary of a decision where that registered hearing aid practitioner was the respondent, prepared in accordance with subsection (4).

(3) The registrar shall publish a summary of a decision or order of an adjudication tribunal in a newspaper of general circulation in or nearest to the community in which the respondent practises within 14 days of the filing of the decision or order, where the decision or order

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her licence;
- (c) restricts the respondent's practice;
- (d) specifies conditions for the continuing practice of the respondent; or
- (e) requires that a summary of the decision or order be published.

(4) Unless a court orders otherwise, the summary of the decision published under subsection (3) shall include

- (a) the name of the respondent and the address where he or she practises;
- (b) the date, location and a brief description of the conduct of the respondent that was found to be deserving of sanction;
- (c) the name of the complainant, unless the complainant has requested that his or her name be withheld;
- (d) the contents of the order in relation to the actions referenced in paragraphs (3)(a) to (d); and
- (e) other information specified for publication in the decision or order.

(5) Where a decision published under this section is varied or set aside, the registrar shall within 14 days of the filing of the subsequent decision or order publish a summary of the decision or order and subsections (3) and (4) apply, with the necessary changes.

2005 cH-2.01 s21: 2014 c7 s8

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De-registration and suspension

22. (1) Where a respondent is struck off the register, his or her rights and privileges as a licensed hearing aid practitioner cease.

(2) Where a respondent is suspended, his or her rights and privileges as a licensed hearing aid practitioner cease for the period of suspension.

(3) Where conditions or restrictions have been imposed upon a respondent's ability to carry on his or her practice, his or her rights and privileges as a licensed hearing aid practitioner shall be limited to the extent specified by the conditions or restrictions.

2005 cH-2.01 s22

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Failure to comply

23. (1) On application by the board to the disciplinary panel, an adjudication tribunal may make an order suspending the rights and privileges of a respondent where it determines that the respondent has failed to comply with a decision or an order under sections 12 to 27.

(2) The parties to the application are the board and the respondent.

(3) An order of an adjudication tribunal under this section may suspend the rights and privileges of the respondent for a fixed period that the adjudication tribunal may consider appropriate, or until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal.

2005 cH-2.01 s23

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Reinstatement and readmission

24. (1) Where a decision or order of an adjudication tribunal

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her licence;
- (c) restricts the respondent's practice; or
- (d) specifies conditions for the continuing practice of the respondent,

and where the respondent alleges that new evidence has become available or a material change in circumstances has occurred since the making of the decision or order, the respondent may apply to the complaints authorization committee for a supplementary hearing to discharge or vary the decision or order based on the new evidence or material change in circumstances.

(2) An application under subsection (1) shall be made not more than 90 days after the new evidence becomes available or the material change in circumstances has occurred.

(3) Where an application is made to the complaints authorization committee under subsection (1), and the committee is of the opinion that new evidence has become available or that a material change in circumstances has occurred, as alleged by a respondent, the matter shall be referred to an adjudication tribunal as if it were a matter referred under paragraph 16(3)(b) and sections 18 to 22 apply, with the necessary changes, to the referred matter.

(4) The parties to a supplementary hearing under this section are the respondent and the board.

(5) For the purpose of this section, in addition to an order that an adjudication tribunal may make under section 20, a tribunal may

- (a) vary the original decision or order made under section 20; or
- (b) discharge the original decision or order, with or without conditions.

2005 cH-2.01 s24

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Costs of the board

25. (1) Where a person who was ordered to pay the costs of the board under paragraph 19(2)(e) or 20(3)(e) fails to pay in the time required, the board may suspend the registration of that person until the costs are paid.

(2) Costs ordered to be paid under paragraph 19(2)(e) or 20(3)(e) are a debt due to the board and may be recovered by the board by a civil action.

2005 cH-2.01 s25

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Collection of fine

26. (1) Where an order is made under section 19 or 20 imposing a fine on a respondent, the board may issue a certificate stating the amount of the fine due and remaining unpaid and the name of the person by whom it is payable, and file the certificate with the Trial Division.

(2) Where a certificate is filed with the Trial Division under subsection (1), it has the same effect and all proceedings may be taken on the certificate as if it were a judgment of the Trial Division for the recovery of the amount stated in the certificate against the person named in the certificate.

(3) A person named in a certificate filed under this section may, within 30 days after the certificate is filed, apply to a judge of the Trial Division for a review, on a question of law or jurisdiction, of the certificate.

(4) On an application under subsection (3), the judge may make an amendment to the certificate that is necessary to make the certificate accord with the judge's decision.

(5) There is no appeal from a decision of a judge made under this section.

(6) A certificate filed under this section may also be filed in the judgment en forcement registry on the expiration of the 30 day period referred to in subsection (3) in accordance with Part III of the *Judgment Enforcement Act* and be enforced in accordance with that Act.

2005 cH-2.01 s26; 2013 c16 s25

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Appeal to Trial Division

27. (1) The board or the respondent may, within 30 days after receiving notice of a decision or order of an adjudication tribunal under this Act, appeal the decision or order to the Trial Division by filing a notice of appeal with the court.

(2) An appeal under this section does not stay the decision or order being appealed unless the Trial Division orders otherwise.

2005 cH-2.01 s27; 2013 c16 s25

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Copies of books, etc. as evidence

28. A copy or extract of a book, record, document or thing certified by

(a) a member of the complaints authorization committee; or

(b) a person authorized under subsection 16 (4) to conduct an inspection,

who made the copy or extract under subsection 16 (4) is admissible in evidence in an action, proceeding or prosecution, in the absence of evidence to the contrary, as evidence of the original book, record, document or thing and its contents.

2005 cH-2.01 s28

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Limitation to practice

29. A person shall not hold himself or herself out as a hearing aid practitioner or in any manner seek to convey the impression of being a hearing aid practitioner unless that person is registered and licensed under this Act.

2005 cH-2.01 s29

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Authorized services

30. A hearing aid practitioner's licence shall set out the services the practitioner is authorized to perform which may be one or more of the following:

- (a) the conducting of tests of pure-tone audiometry, including air-conduction testing and bone-conduction testing;
- (b) the conducting of tests of live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
- (c) the application of masking, where indicated;
- (d) the recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid; and
- (e) the taking of earmold impressions and fitting of hearing aids.

2005 cH-2.01 s30

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Restriction

31. A licence under this Act is not required by

- (a) [Rep. by 2012 c34 s1]
- (b) an audiometric technician working under the supervision of a hearing aid practitioner who assists in the measurement of human hearing,

in order to carry out the duties of his or her employment.

2005 cH-2.01 s31; 2012 c34 s1

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Recovery of fees

32. A registered hearing aid practitioner is entitled to demand payment of reasonable charges from persons by whom he or she is consulted and to whom he or she provides services and to recover as a debt, in a court, the appropriate charges for a consultation and those services.

[Back to Top](#)**Protection from liability**

33. An action for damages does not lie against the registrar, an officer or employee of the board, a member of a disciplinary panel, adjudication tribunal or the individual members of those bodies, a person appointed by the complaints authorization committee to conduct an investigation, another agent of the board or the board as a corporation for an act or failure to act or a proceeding initiated or carried out in good faith under this Act, or for carrying out duties or obligations authorized under this Act or for a decision or order made or enforced in good faith under this Act.

2005 cH-2.01 s33[Back to Top](#)**Regulations**

34. (1) The board may, with the approval of the minister, make regulations

- (a) prescribing conditions and requirements for the licensing of persons to operate as hearing aid practitioners;
- (b) respecting continuing education courses and other programs for the purpose of maintaining and improving standards of hearing aid practitioners;
- (c) approving training programs acceptable for the purposes of registration and licensing;
- (d) respecting alternative dispute resolution for the purposes of sections 12 to 27 and the procedure for that resolution;
- (e) prescribing time limits for events in the disciplinary process in sections 12 to 27, including time limits for
 - (i) the filing of an allegation,
 - (ii) the resolving of an allegation by the registrar,
 - (iii) the conduct of an investigation under section 16,
 - (iv) consideration of an allegation by the complaints authorization committee following completion of an investigation,
 - (v) responding to a complainant and respondent at each stage of the process,
 - (vi) the conduct of a practice investigation under subparagraph 16(3)(c)(ii),
 - (vii) the appointment of an adjudication tribunal under section 17, and
 - (viii) the conduct of a hearing and the filing of a decision or order by an adjudication tribunal following completion of the hearing; and
- (f) prescribing, scheduling or adopting examinations, including the circumstances under which examinations may be required, with power to exempt an applicant from examination where, in the opinion of the board, it is reasonable to do so.

(2) Notwithstanding subsection (1), the minister may make regulations to prescribe time limits for events in the disciplinary process under sections 12 to 27 where the board does not do so in a time period the minister considers reasonable.

2005 cH-2.01 s34

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Fees and forms

35. The board may set fees and prescribe forms for the purpose of and administration of this Act.

2005 cH-2.01 s35

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Offence

36. A person who contravenes this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a term not exceeding one month or to both a fine and imprisonment.

2005 cH-2.01 s36

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Transition

37. (1) The members of the Hearing Aid Practitioners Board on the day before this Act comes into force are continued as members of the board until an election is held under section 5.

(2) An election to elect the 4 members of the board referred to in paragraph 3(2)(a) shall be held within 12 months after the day this Act comes into force.

(3) The minister shall make appointments under section 4 within 30 days of the election held under subsection (2).

(4) Of the members of the board first elected under section 5,

(a) 2 shall be elected for a term of 3 years; and

(b) 2 shall be elected for a term of 2 years.

2005 cH-2.01 s37

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RSNL1990 cH-2 Rep.

38. The Hearing Aid Dealers Act is repealed.

2005 cH-2.01 s38

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