

Guidance on the Imposition of Costs in Discipline Matters

Purpose

The purpose of this document is to provide guidance to decision bodies in the assessment of discipline related costs against a subject member who has been found by way of a discipline hearing and/or Council Review on the Record to have contravened the Act and/or Rules. It is noted that the consideration of imposition of costs is separate from the penalty provision in the Act and Rules.

Determination of Costs:

The *College Act* provides a Discipline Panel (in the case of Discipline Hearings) and the Council (in the case of a Review on the Record) with discretion as to whether to require a subject member to pay costs associated with an investigation, a Hearing, and/or a Review on the Record. The Act permits the College to recoup the actual costs, including salaries, incurred by the College in the consideration of the complaint.

These costs can include, but are not necessarily limited to the following (NB: not listed in priority order):

- Investigation costs including
 - salary costs and expenses of staff involved
 - costs associated with a contractor retained for the purpose of conducting the investigation
 - costs associated with convening the Discipline Committee
- Discipline Hearing related costs including
 - costs of convening the Discipline Panel
 - witness travel costs and expenses
 - costs of recording the hearing
 - costs of producing a hearing transcript
 - cost incurred by the College in publishing public notices, e.g. Citations, Notices of Hearing, Panel decisions
 - reasonable fees and expenses of legal counsel and expert witnesses retained by the College including legal costs associated with the Panel
 - any other costs incurred for which the College would be liable
- Review on the Record costs including
 - Costs of convening the Council to hear the Review on the Record
 - salary costs and expenses of staff involved in the hearing and the Review on the Record

Imposition of Costs

In determining whether to require the member to pay any or all of the costs, the decision making body may:

- at the time the assignment of costs is under consideration request the Executive Director provide a table of actual costs incurred

- consider whether the actions undertaken by the subject member were intentional or reckless, or unintentional or negligent, or a combination of same
- consider whether the decision addressed areas common to the membership as a whole or to the subject member primarily
- consider the cost impositions of College decision bodies in other similar circumstances

Where the decision making body makes an order for costs, the body should impose a time allowed for the payment to occur.

Council recommends that decision making bodies consider requiring subject members who have been found to have contravened the Act and/or Rules to pay the actual costs incurred by the College of any discipline related investigation leading to the issuance of a Citation, and all costs associated with the Discipline Hearing and/or Review on the Record as the case may be.