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**A COMPLETE GUIDE TO THE
REGULATED HEALTH PROFESSIONS ACT**

Richard Steinecke

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This publication provides a systematic explanation of how the law of self-regulation works, with particular focus on health practitioners in Ontario, and includes: examples, illustrations, flow charts, forms, checklists and precedents; an explanation of every aspect of the *Regulated Health Professions Act* (RHPA); complete text of the RHPA, procedural Code and statutes such as the *Statutory Powers Procedure Act*, as well as everything needed for a hearing or meeting, and extensive case citations.

What's New in this Update:

This release features updates to Chapter 1 (Role of Minister of Health and Advisory Council), Chapter 2 (Role and Structure of the Colleges),

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Chapter 3 (Registration), Chapter 5 (Investigations and Complaints), Chapter 6 (Discipline Proceedings) and Chapter 8 (Appeals, Reinstatement and Other Remedies). In addition, Chapter 11 (Controlled Acts and Protected Titles) and updates have been made to the legislation contained in the book.

Highlights:

- **College Performance Measure Framework** — The Ministry of Health has introduced a College Performance Measure Framework that will require Colleges to provide detailed information about their performance according to fifteen Standards. Chapter 1 is updated to contain a detailed description of the initiative, how it works, and the implications for health Colleges.
- **Joint Books of Documents** — For the second time this year, Ontario’s highest court has provided detailed guidance as to filing documents at a hearing. It is common for parties to agree upon a primary set of documents that can go before the hearing tribunal in an organized fashion. In fact courts and tribunals have long been encouraging that this be done cooperatively in order to avoid wasted time first proving individual documents and then locating them every time a document is referred to. Many of us have experienced the frustration of trying to assist a five-person discipline hearing panel sort through 50 loose exhibits during the examination of a witness. However, the result has been that counsel are sometimes unclear as to how the tribunal can then use the documents. For example, if a document records a statement or event by a person, can the panel use that document for the “truth of its content” (i.e., to establish that the statement was made or that the event occurred)? Or is the document there for another purpose (e.g., to be used to cross-examine the author of the document on how they could have reached such an outlandish conclusion)? If the author of the document does not testify at the hearing, then the statements within the document can be hearsay, raising issues as to its very admissibility. The Court rejected the notion that the documents can simply be filed and the adjudicator can determine how much weight to be placed on it.

In *Bruno v. Dacosta* (2020), 69 C.C.L.T. (4th) 171 (Ont. C.A.), cited *Girao v. Cunningham*, 2020 ONCA 260, 2020 CarswellOnt 5363, 2 C.C.L.I. (6th) 15 (Ont. C.A.) by saying:

[T]he court repeated the following process for filing agreed documents:

In my view, counsel and the court should have addressed the following questions, which arise in every case, in considering how the documents in the joint book of documents are to be treated for trial purposes:

1. Are the documents, if they are not originals, admitted to be true copies of the originals? Are they admissible without proof of the original documents?
2. Is it to be taken that all correspondence and other documents in the document book are admitted to have been prepared, sent and received on or about the dates set out in the documents, unless otherwise shown in evidence at the trial?
3. Is the content of a document admitted for the truth of its contents, or must the truth of the contents be separately established in the evidence at trial?
4. Are the parties able to introduce into evidence additional documents not mentioned in the document book?
5. Are there any documents in the joint book that a party wishes to treat as exceptions to the general agreement on the treatment of the documents in the document book?
6. Does any party object to a document in the document book, if it has not been prepared jointly?

It would be preferable if a written agreement between counsel addressing these matters were attached to the book of documents in all civil cases. In addition, it would be preferable if the trial judge and counsel went through the agreement line by line on the record to ensure that there are no misunderstandings.

Following this process can be detail orientated and painstaking. It can also be difficult for non-legally trained panel members to follow. While the goal of the Court's direction is to make the resulting hearings less ambiguous and to reduce the grounds of appeal that can arise, it will require significantly more effort on everyone's part, particularly in cases where credibility is in issue.

