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**RULES OF PROCEDURE OF THE BOARD OF DRUGLESS THERAPY -
NATUROPATHY**

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RULES OF PROCEDURE OF THE BOARD OF DRUGLESS THERAPY - NATUROPATHY

RULE 1 - INTERPRETATION AND APPLICATION

1.01 Definitions

1.01 In these rules, unless the context requires otherwise,

"Act" means the *Drugless Practitioners Act*;

"chair" means the chair of the Hearing Panel or his or her designate;

"Board" means the Board of Directors of Drugless Therapy - Naturopathy;

"certified court reporter" is a professional court reporter that regularly records examinations in matters before the civil courts and has the appropriate credentials;

"defence counsel" means the lawyer or lawyers retained by or on behalf of a registrant;

"deliver" means to serve on every other party or, in the case of a motion, motion participant and to file with the discipline staff with proof of service, and "delivery" and "delivering" have corresponding meanings;

"discipline staff" means the employee or employees of the Board who are assigned the duty of providing administrative assistance to the Hearing Panel;

"electronic" with respect to a proceeding means a proceeding held by telephone conference call or some other form of electronic technology allowing persons to communicate with and hear one another;

"Hearing Panel" means the members of the Board that are hearing the proceeding and may, where the context permits, include members of the Board that are not hearing the proceeding on the merits but may be available for other duties, such as hearing a motion or acting as a presiding officer at a pre-hearing conference.

"holiday" means,

- (a) any Saturday or Sunday,
- (b) New Year's Day,
- (c) Good Friday,
- (d) Easter Monday,
- (e) Victoria Day,
- (f) Canada Day,
- (g) Civic Holiday,
- (h) Labour Day,
- (i) Thanksgiving Day,

(j) Christmas Day,
(k) Boxing Day,
(l) any special holiday proclaimed by the Governor General or the Lieutenant Governor, and
(m) any other day designated by the Board as a holiday,
and where New Year's Day, Canada Day, Christmas Day or Boxing Day falls on a Saturday or Sunday, the day designated by the Board is a holiday;

"independent legal counsel" means the lawyer or lawyers appointed by the Hearing Panel to provide advice;

"lawyer" means a member of the Law Society of Upper Canada;

"motion" is a request made to the Hearing Panel to make an order in a particular proceeding;

"motion participant" is a party and any other person who would be affected by the order sought on a motion;

"order" means any decision made by the Hearing Panel and includes a direction given by the Hearing Panel;

"party" means the representative of the Board assigned to prosecute the matter before the Hearing Panel, the registrant facing a proceeding before the Hearing Panel and any other person given party status in the proceeding by the Hearing Panel;

"presiding officer", in respect of a pre-hearing conference, means a person designated by the chair to preside over the pre-hearing conference;

"proceeding" means any step in the discipline hearing process and includes a motion, a pre-hearing conference and the hearing itself; and

"prosecutor" means the lawyer or lawyers appointed by the Board to prosecute allegations against one or more registrants before the Hearing Panel.

"registrant" means a person registered with the Board who is the subject of a hearing before the Hearing Panel and includes a former registrant;

1.02 Interpretation of Rules

1.02(1) These rules shall be liberally construed to secure a just and expeditious determination of the allegations against the registrant.

1.02(2) Where matters are not provided for in these rules, the practice shall be determined by analogy to them.

1.02(3) Where a registrant is not represented by a lawyer, anything these rules require or permit a lawyer to do shall be done by the registrant either personally or through his or her agent.

1.03 Application of Rules

1.03 These rules apply to all disciplinary proceedings before a Hearing Panel.

RULE 2 - TIME

2.01 Computation, Extension or Abridgment of Time

2.01(1) In the computation of time under these rules or under an order, except where the contrary intention appears,

- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even where the words "at least" are used;
- (b) where a period of less than seven days is required, holidays shall not be counted;
- (c) where the time for doing an act under these rules expires on a holiday, the act may be done on the next day that is not a holiday; and
- (d) service of a document made after 4:00 p.m. or at any time on a holiday shall be deemed to have been made on the next day that is not a holiday.

2.01(2) Where a time of day is mentioned in these rules, in an order or in any document in a proceeding, the time referred to shall be taken as the time observed locally.

2.01(3) The Hearing Panel may extend or abridge any time required by these rules or an order on such terms or conditions as the Hearing Panel considers just either before or after the expiration of the time.

RULE 3 - DOCUMENTS

3.01 Form of Documents

3.01(1) Every document prepared for the Hearing Panel shall, to the extent practical, comply with the standards and requirements for documents filed under the Rules of Civil Procedure.

3.01(2) The front and back page of documents shall be coloured as follows:

- (a) buff if prepared by the prosecutor;
- (b) blue if prepared by defence counsel; and
- (c) green if prepared by any other person.

3.02 Notice to be in Writing

3.02 Where these rules require notice to be given, it shall be given in writing.

3.03 Filing of Documents

3.03(1) All documents to be filed in a proceeding shall be filed with the discipline staff, except where they are filed in the course of a proceeding.

3.03(2) Any document may be filed with the discipline staff by leaving it with a person at the Board office or by mailing it or by sending it by courier to the Board of Directors of Drugless Therapy - Naturopathy, 112 Adelaide Street East, Toronto, Ontario, M5C 1K9, or, if it is less than 10 pages, by facsimile.

RULE 4 - WAIVER OF A RULE

4.01 Methods of Waiving a Rule

4.01(1) Any provision of these rules may be waived upon an order of the Hearing Panel.

4.01(2) A party or motion participant requesting that a provision of these rules be waived shall bring a motion to the Hearing Panel permitting the waiver.

4.01(3) A motion under this rule may be made after a failure to comply with these rules has occurred.

4.01(4) The Hearing Panel may refuse to grant a motion for a waiver from a provision of these rules where a party or motion participant does not act on a timely basis.

4.01(5) The Hearing Panel may waive a provision of these rules on its own initiative if it first gives notice to the parties or motion participants and provides an opportunity for submissions to be made in writing.

RULE 5 - MOTIONS

5.01 Initiating Motions

5.01(1) A motion shall be made by a notice of motion in accordance with Form 5A unless the nature of the motion or the circumstances make a notice of motion impractical.

5.01(2) A motion, such as a motion for disclosure, that may result in an adjournment or delay of the hearing, except a motion described in rule 8.03, shall be brought as soon as possible and shall be heard on a day that is at least two weeks before the day upon which the hearing is scheduled to commence. All other motions shall be brought at the commencement of the hearing unless the Hearing Panel directs otherwise.

5.01(3) A person bringing a motion shall deliver the notice of motion and materials in support of the motion at least 10 days before the motion is to be heard.

5.01(4) The other motion participants shall deliver their materials at least 3 days before the motion is to be heard.

5.02 Scheduling a Motion

5.02(1) A person bringing a motion to be heard other than at a scheduled pre-hearing conference or at a hearing shall obtain available dates and times for the hearing of the motion from the Hearing Panel by contacting the discipline staff and shall attempt to obtain agreement from the other motion participants as to a date and time for the hearing of the motion.

5.02(2) A person bringing a motion shall inform the discipline staff of the estimated length of time it will take to argue the motion when first seeking available dates and times.

5.02(3) If the person bringing the motion cannot, after reasonable efforts, obtain agreement for a date and time under subrule (1), the person shall seek directions from the Hearing Panel or, where there is insufficient time to do so, shall choose an available date and time under subrule (1).

5.03 Evidence on Motions

5.03(1) Evidence on a motion shall be given by affidavit unless the Hearing Panel directs that it be given in some other form or unless otherwise provided by law.

5.03(2) All affidavits used on a motion shall,

- (a) be confined to the statement of facts within the personal knowledge of the deponent, except that the affidavit may contain statements of the deponent's information and belief, if the source of the information and the fact of the belief are specified in the affidavit; and
- (b) be signed by the deponent and sworn or affirmed before a person authorized to administer oaths or affirmations, which person shall also mark all exhibits as such to the affidavit.

5.03(3) A motion participant may cross-examine the deponent of an affidavit filed by another motion participant.

5.03(4) The cross-examination shall take place before a certified court reporter.

5.03(5) A person who has been cross-examined on a motion may be cross-examined again at the hearing itself.

5.04 Materials on Motions

5.04(1) The person bringing a motion shall deliver the notice of motion and other materials in support of the motion in the form of a motion record.

5.04(2) The motion record shall contain the notice of motion, all affidavits to be relied upon and any other material to be relied upon.

5.04(3) If another motion participant intends to rely upon materials not contained in the moving party's record, the motion participant shall deliver those materials in the form of a responding motion record.

5.04(4) A motion record and responding motion record shall have consecutively numbered pages and a table of contents describing each document, including each exhibit, by its nature and date and, in the case of an exhibit, by exhibit number or letter.

5.04(5) Despite subrules (2) and (3), a motion participant may deliver separately from the motion record or responding motion record a book of authorities and a factum consisting of a concise statement of the facts and law relied on by the motion participant.

5.05 Assigning a Motion Panel

5.05(1) The chair shall, in accordance with section 4.2 of the *Statutory Powers Procedure Act*, assign a panel of one or more members of the Hearing Panel to hear each motion. The quorum of a panel to hear a motion is one.

5.05(2) A motion participant who believes that the motion ought to be heard by members of the Board who will not sit on the Hearing Panel shall request a direction from the motion panel on the matter in the notice of motion or a notice of cross-motion.

5.06 Hearing Motions Electronically

5.06 Motions other than motions brought at a scheduled pre-hearing conference or at a hearing shall be heard electronically in accordance with these rules unless the Hearing Panel directs otherwise.

5.07 Written Order

5.07(1) Immediately after a motion has been determined, the motion participant initiating the motion shall, and any other motion participant affected by an order may, prepare a draft of the formal order and deliver it.

5.07(2) The order shall be in accordance with Form 5B.

5.07(3) After providing a reasonable opportunity for the other motion participants to comment in writing on the draft order, it shall be reviewed, amended if necessary and signed by a representative of the Hearing Panel.

5.07(4) This rule does not apply to orders made on the record during the hearing.

5.08 Renewing or Rearguing a Motion

5.08(1) A motion participant shall not renew or reargue a matter that has previously been determined on a motion unless permission has been obtained from the Hearing Panel by means of written submissions.

5.08(2) Despite subrule (1), a motion participant may renew or reargue a matter that has previously been determined on a motion if that is provided for in the order of the panel hearing the motion.

RULE 6 - PRE-HEARING CONFERENCES

6.01 Initiating Pre-hearing Conferences

6.01(1) The Hearing Panel may direct the parties to participate in a pre-hearing conference. The parties can also consent to participating in a pre-hearing conference.

6.01(2) The chair may designate a person, including a person who is not a member of the Board, to act as the presiding officer. The pre-hearing conference can also be conducted with no presiding officer in which case these provisions should be read as if there is no presiding officer and the parties will act on consent.

6.01(3) The presiding officer shall, after consultation with the discipline staff, defence counsel and the prosecutor, schedule a date for the pre-hearing conference to be held and shall notify the parties of the date.

6.01(4) The senior prosecutor and the registrant and, where the registrant is represented by counsel, the senior defence counsel shall attend at the pre-hearing conference.

6.01(5) The presiding officer may direct a pre-hearing conference to be held electronically.

6.02 Pre-hearing Conference Memorandum

6.02(1) The parties shall complete a pre-hearing conference memorandum in accordance with Form 6A to the satisfaction of the presiding officer.

6.02(2) The prosecutor shall deliver its pre-hearing conference memorandum 20 days before the date of the conference and defence counsel shall deliver its pre-hearing conference memorandum 10 days before the date of the conference.

6.02(3) Where the presiding officer concludes that a pre-hearing conference memorandum is inadequate for the most effective use of the pre-hearing conference, he or she may require the party to deliver a more adequate memorandum by a specified date and may adjourn the date of the conference.

6.03 Procedure at Pre-hearing Conference

6.03(1) At the pre-hearing conference, the presiding officer shall first discuss the following with the parties on a without prejudice basis:

- (a) whether any or all of the issues can be settled;
- (b) whether the issues can be simplified;
- (c) whether there are any agreed facts; and
- (d) the advisability of attempting other forms of resolution of the matter.

6.03(2) After the discussion referred to in subrule (1), the presiding officer shall discuss with the parties and then may give directions or, if he or she is a member of the Hearing Panel, make orders about the following:

- (a) the scheduling of any motions that can be heard before the hearing;
- (b) the content and timing of any additional disclosure;
- (c) the delivery and form of any documents to be used at the hearing and whether the documents can appropriately be reviewed by the Hearing Panel before the commencement of the hearing;
- (d) the delivery of written arguments and books of authorities and whether these can appropriately be reviewed by the Hearing Panel before the commencement of the hearing;
- (e) the scheduling of the hearing;
- (f) the scheduling of any motions that cannot be heard before the commencement of the hearing;
- (g) when the witnesses to be called at the hearing must be available to testify;
- (h) the use and scheduling of panels of expert witnesses; and
- (i) any other matter that may assist in the just and most expeditious disposition of the proceeding.

6.03(3) The presiding officer shall prepare a report after the pre-hearing conference in accordance with Form 6B listing every agreement reached under subrule (1), every direction given or order made under subrule (2) and every undertaking given by the parties and shall send a copy of the report to the parties.

6.03(4) If a party becomes aware of additional circumstances that would materially affect the conduct of the hearing before the commencement of the hearing, the party shall immediately deliver a written notice of the circumstances and the presiding officer may schedule a supplementary pre-hearing conference.

6.03(5) The provisions of Rule 6 apply to further or supplementary pre-hearing conferences with necessary modifications.

6.04 Motions at the Pre-hearing Conference

6.04 A party may bring a motion to be heard at the pre-hearing conference in accordance with Rule 5 if the presiding officer is a member of the Board.

RULE 7 - ELECTRONIC HEARINGS AND PROCEEDINGS

7.01 Procedure on Electronic Proceedings

7.01(1) This rule applies to any proceeding held electronically, particularly motions and pre-hearing conferences, under these rules or at the direction of the Hearing Panel.

7.01(2) At least 48 hours before an electronic proceeding is scheduled to commence, every person participating in the proceeding shall give notice to the discipline staff of the telephone number where he or she can be reached for the proceeding.

7.01(3) Unless otherwise provided in the rules, every person participating in the proceeding shall deliver every document, in consecutively numbered pages, he or she intends to rely upon at least 3 days before the proceeding.

7.01(4) Every person participating in the proceeding shall ensure that he or she, as arranged by the discipline staff, calls in to the number provided by the discipline staff or can be reached at the telephone number provided to the discipline staff beginning at five minutes before the proceeding is scheduled to commence.

RULE 8 - DISCLOSURE AND PRODUCTION

8.01 Disclosure

8.01(1) By standing order, the Hearing Panel directs the prosecutor to make disclosure to the registrant of all relevant information that is not privileged.

8.01(2) By standing order, the Hearing Panel directs all parties to disclose to the other parties a report setting out the anticipated evidence of any expert witness the party might call.

8.01(3) Disclosure shall be made at least ten days before the start of the hearing.

8.01(4) If the prosecutor directly or indirectly communicates information to a witness that was obtained on a without prejudice basis, the prosecutor shall promptly disclose the communication to defence counsel.

8.01(5) If a party fails to make proper disclosure, another party may comment on that fact during the hearing if the failure to disclose might be relevant to the Hearing Panel's consideration of the evidence.

8.01(6) Any person who receives disclosure relating to a proceeding before the Hearing Panel, whether under these Rules or otherwise, shall only use the information for the purposes of the proceeding, and shall not use it for any other purpose. The person shall also ensure that any other person to whom he or she gives the information undertakes to similarly restrict the use of the information.

8.02 Motions for Disclosure

8.02(1) All motions for disclosure shall be brought in accordance with subrule 5.01(2) unless special circumstances require that the motion be brought later.

8.02(2) The Hearing Panel may, to protect the privacy of any person, impose terms or conditions upon the extent and method of disclosure or the use of the information disclosed.

8.03 Production of Documents

8.03(1) A summons for the production of documents that are not in the possession of a party shall not require the production of any documents before the commencement of the hearing.

8.03(2) A motion relating to the production of documents that will likely require the examination of the documents by the Hearing Panel, including motions to which the provisions of the *Mental Health Act* may apply, shall not be heard until the commencement of the hearing.

8.03(3) Notice of a motion relating to the production of documents shall be served on the person possessing the documents and on any other person with a significant interest, including a privacy interest, in the documents.

RULE 9 - TAKING EVIDENCE BEFORE THE HEARING

9.01 Initiating the Taking of Evidence Before the Hearing

9.01(1) A party who intends to introduce the evidence of a person at the hearing and who has made all required disclosure in respect of the evidence of that witness may, with the consent of the parties or by order of the Hearing Panel, examine the witness on oath or affirmation before the hearing for the purpose of having the witness' testimony available to be tendered as evidence at the hearing.

9.01(2) The Hearing Panel may make an order under subrule (1) if it is satisfied that the order would not cause significant prejudice to a party and would not prevent the Hearing Panel from fully and fairly understanding the evidence.

9.01(3) The party who intends to introduce the evidence of the witness shall ensure that the examination is recorded, at the party's cost, by a certified court reporter or a person with similar qualifications acceptable to the Hearing Panel and shall deliver a copy of the transcript of the evidence at least 3 days before the hearing is scheduled to commence.

9.01(4) The party who intends to introduce the evidence of the witness shall also ensure that the examination is videorecorded, at the party's cost, unless the parties consent or the Hearing Panel orders otherwise and shall file a copy of the videorecording at least 3 days before the hearing is scheduled to commence.

9.01(5) The examination shall take place at the date, time and place consented to or ordered by the Hearing Panel.

9.01(6) The Hearing Panel may impose terms or conditions in the order for an examination including a term or condition that the party intending to call the witness pay for the reasonable travel expenses of the lawyers for the other parties and the registrant (where the registrant is not the party intending to call the witness).

9.02 Procedure at the Examination

9.02(1) A witness examined under subrule 9.01(1) may, after being sworn or affirmed by a person authorized to do so, be examined, cross-examined and re-examined in the same manner as a witness at a hearing.

9.02(2) Where a question is objected to, the objector shall state briefly the reason for the objection, and the question and the brief statement shall be recorded.

9.02(3) The party objecting to a question may, after the objection, permit the question to be answered subject to a ruling being obtained from the Hearing Panel before the evidence is used at a hearing.

9.02(4) A ruling on the propriety of a question that is objected to and not answered may be obtained on motion to the Hearing Panel.

9.02(5) Where the question is not answered under subrule (3) and the objection is found not to be valid, the person who objected shall ensure that the witness is produced at the expense of the person who objected for another examination before the hearing or at the hearing to answer the question.

9.02(6) Any document used during the examination that is intended to be filed as an exhibit at the hearing shall be marked at the examination by the person introducing it so it can be identified later and the person introducing it shall deliver a copy of it.

9.03 Use of Examination at the Hearing

9.03(1) At the hearing, any party may use the transcript and videorecording of an examination made under this rule as the evidence of the witness unless the Hearing Panel orders otherwise.

9.03(2) A witness who has been examined under this rule shall not be called to give evidence at the hearing except on the order of or at the request of the Hearing Panel.

9.03(3) Where a witness is ordered or requested to give evidence at the hearing under subrule (2), the party who tendered the evidence under subrule (1) shall arrange for the witness to attend at the party's expense.

9.03(4) The transcript and any videorecording need not be read or played during the hearing with the parties present unless a party or the Hearing Panel requires the reading of a transcript or the playing of a videorecording.

9.03(5) Where the reading of a transcript or the playing of a videorecording is required under subrule (4), the party who initiated the examination under subrule 9.01(1) shall conduct the reading or playing during the presentation of that party's case unless the Hearing Panel orders otherwise.

RULE 10 - NON-PARTY PARTICIPATION

10.01 General Non-Party Participation

10.01(1) A person including an unincorporated association who is not a party who wishes to participate in the hearing shall bring a motion in accordance with these rules and, despite rule 5.05, the chair shall assign the panel that will be conducting the hearing to hear the motion.

10.01(2) The notice of motion shall set out the extent of participation the person proposes to have in the hearing and shall be accompanied by the evidence upon which the person intends to rely in support of the motion and written submissions in support of the motion.

10.01(3) If the Hearing Panel allows the person to participate in the hearing, the person shall comply with the rules as much as is practical unless to do so would be inconsistent with the Hearing Panel's determination of the extent of the person's participation in the hearing.

10.01(4) If the Hearing Panel allows the person to participate in the hearing, the other parties shall apply the rules to the person as much as is practical unless to do so would be inconsistent with the Hearing Panel's determination of the extent of the person's participation in the hearing.

10.02 Notice of Constitutional Questions

10.02(1) Where a party intends to raise a question about the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a rule of common law, or where a party claims a remedy under subsection 24(1) of the *Canadian Charter of Rights and Freedoms*, notice of a constitutional question shall be delivered and shall also be served on the Attorneys General of Canada and Ontario as soon as the circumstances requiring notice become known and, in any event, at least 15 days before the question is to be argued.

10.02(2) Where the Attorneys General of Canada and Ontario are entitled to notice, he or she or both of them are entitled to adduce evidence and to make submissions to the Hearing Panel regarding the constitutional question.

RULE 11 – EXPEDITED HEARINGS

11.01 Requesting Expedited Hearings

11.01 A party can request, by motion, that the Hearing Panel expedite a hearing where circumstances warrant one.

RULE 12 - PROCEDURE DURING THE HEARING

12.01 Electronic Devices and Publication of Proceedings

12.01(1) No person shall:

- (a) take or attempt to take a photograph, motion picture, audio or video recording or other record capable of producing visual or aural representations by any means,
 - (i) of any person at a hearing of the Hearing Panel,
 - (ii) of any person entering or leaving a hearing of the Hearing Panel, or
 - (iii) of any person in the building in which a hearing of the Hearing Panel is held, where there is a reasonable ground for believing that the person is there for the purpose of attending the hearing; or
- (b) publish, broadcast, reproduce or otherwise disseminate a photograph, motion picture, audio or video recording or other record taken in contravention of clause (a).

12.01(2) Subrule (1) does not apply to:

- (a) a person unobtrusively making handwritten or typewritten notes or sketches at a hearing;

- (b) a party or an agent or lawyer representing a party unobtrusively making an audio recording at a hearing that is used only as a substitute for handwritten or typewritten notes for the purposes of the hearing;
- (c) a person taking a photograph, motion picture, audio or video recording or other record with the authorization of the Hearing Panel for any purpose of the hearing; or
- (d) a person taking a photograph, motion picture, audio or video recording or other record with the authorization of the Hearing Panel and the consent of the parties and of the witnesses to be recorded, for such educational or instructional purposes as the Hearing Panel approves.

12.02 Oral and Written Argument

12.02(1) The Hearing Panel may place reasonable limits on the length of oral submissions.

12.02(2) The Hearing Panel may, after hearing submissions, order the parties to submit written arguments on some or all of the issues at the hearing and may give directions as to the form, length and timing of such written arguments.

RULE 13 - GIVING NOTICE OF FINAL DECISION

13.01 Methods of Giving Notice of Final Decision

13.01(1) In addition to the methods described in section 18 of the *Statutory Powers Procedure Act*, the Hearing Panel may send each party a copy of its final decision or order, including the reasons if any have been given,

- (a) by courier; or
- (b) by personal service.

13.01(2) If a copy is sent by courier, it shall be sent to the most recent address known to the Hearing Panel and shall be deemed to be received by the party on the day the copy is signed for by a person who appears to be employed at or reside at that address.

RULE 14 - COSTS

14.01 Costs for Non-compliance with Rules

14.01 Where the Hearing Panel is entitled to order the payment of costs or expenses by a party, the Hearing Panel may consider the failure of a party to comply with these rules.

14.02 Costs

14.02 The Hearing Panel may order a party to pay the costs of another party if clause 17.1(2)(a) of the *Statutory Powers Procedure Act* applies including if one or more of the following apply:

- (a) if the Hearing Panel finds that there was no basis for referral of the matter to discipline, costs may be awarded against the Board;
- (b) if a finding of misconduct, ignorance or incompetence is made against the registrant, costs may be awarded against the registrant.

14.03 Amount of the Costs

14.03 Where the Hearing Panel awards costs, the amount of the costs may include all or part of the reasonable legal or agent's fees of the party's lawyer or agent to a maximum of \$300 per hour and all or some of the party's reasonable disbursements.

14.04 Procedure for Requesting Costs

14.04(1) A party requesting an order for costs shall, where practicable, deliver a detailed written explanation of the basis upon which the costs requested are calculated.

14.04(2) Where the request for costs includes disbursements, these may be proved by an affidavit attaching a copy of any invoice or receipt.

14.04(3) The Hearing Panel may direct that the amount of costs be calculated at a motion conducted separately from the hearing under Rule 5 with any necessary modifications.

FORM 5A - NOTICE OF MOTION

[General Heading]

NOTICE OF MOTION

THE [IDENTIFY MOVING MOTION PARTICIPANT] WILL make a motion to the Hearing Panel of the Board of Directors of Drugless Therapy - Naturopathy on *[day]*, *[date]*, at *[time]*, or as soon after that time as the motion can be heard, at *[insert address or that the matter will be heard electronically with details of the manner in which it will be held]*, Toronto, Ontario. *[Choose one of the following if the motion is to be heard electronically: "This motion deals only with procedural matters." or "If a party satisfies the Hearing Panel on a motion brought under Rule 5 of the Rules of Procedure of the Board that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, the party may require the Hearing Panel to hold the hearing of this motion as an oral hearing."]* If you do not participate in the hearing in accordance with this notice, the prosecution may proceed without you and you will not be entitled to any further notice in the proceeding.

THE MOTION IS FOR *[state here the precise relief sought]*.

THE GROUNDS FOR THE MOTION ARE *[specify the grounds to be argued, including a reference to any statutory provision or rule to be relied on]*.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL be used at the hearing of the motion: *[list the affidavits or other documentary evidence to be relied on]*.

[Date]

[Name, address, telephone and facsimile numbers of moving motion participant's lawyer or moving motion participant]

TO: *[Name, address, telephone and facsimile numbers of responding motion participant's lawyer or responding motion participant]*

FORM 6A - PRE-HEARING CONFERENCE MEMORANDUM

[General Heading]

PRE-HEARING CONFERENCE MEMORANDUM OF THE PROSECUTION *[OR OF THE REGISTRANT, AS THE CASE MAY BE]*

Date of Pre-Hearing Conference:

Prosecutor:

Defence Counsel:

BACKGROUND INFORMATION

1. Please attach a copy of the notice of hearing to this memorandum.
2. Set out a brief statement of the theory of the prosecution's case as you understand it, including factual contentions.
3. Set out a brief statement of the theory of the registrant's case as you understand it, including factual contentions.
4. Provide a description of the legal issues to be determined at the hearing.
5. For every witness you may call at the hearing, set out or attach a statement of the substance of the evidence of the witness.
6. Attach a copy of any document that would assist the pre-hearing conference to be more effective.

SETTLEMENT AND AGREEMENTS

7. What are the prospects for settlement?
8. Have counsel discussed the matter and sought instructions?
9. Would this be a suitable case to attempt informal resolution?

10. Set out the facts in numbered paragraphs that you believe should be agreed to.
11. Set out a numbered list of documents that you believe should be admitted on agreement.

ADDITIONAL STEPS BEFORE THE HEARING

12. On the subject of motions:
 - Will you be bringing any motions before or during the hearing?
 - If so, what order will you seek and on what grounds?
 - When do you intend to bring each motion?
 - Are there any issues with respect to disclosure?
 - Has the prosecution made full disclosure to the registrant?
 - Have you produced all of the expert reports upon which you intend to rely?
 - If you have not yet made all required disclosure, why not and by what date will it be done?
13. On the subject of a documents brief:
 - Who will prepare and deliver a brief containing the notice of hearing, the documents admitted by agreement, and the presiding officer's report?
 - By what date will the brief be delivered?
 - Should the Hearing Panel be able to review the brief before the hearing?
14. On the subject of written arguments:
 - Are there any issues which should be the subject of written argument? If so, identify them.
 - When should the written arguments be delivered by?
 - Should the Hearing Panel be able to review the written arguments before the hearing?
15. On the subject of a book of authorities:
 - Will you be referring to any authorities other than the *Statutory Powers Procedure Act*, the *Drugless Practitioners Act* and the regulations under those statutes? If so, list them.
 - Should those authorities be copied for the Hearing Panel or for independent legal counsel?
 - If so, who should prepare the authorities brief and when should it be delivered?
 - Should the Hearing Panel or independent legal counsel be able to review the authorities brief before the hearing?

PLANNING THE HEARING

16. On the subject of scheduling the hearing:
 - Are you ready for the hearing?

- Are there any special considerations affecting the setting of a date arising from the availability of witnesses or otherwise?
- How long will the hearing last?
- Other than the motions listed above, the witnesses listed above and the normal submissions, is there anything else that will have to be dealt with during the hearing itself?
- Estimate the length of time it will take to dispose of any motions you will bring during the hearing including adequate time for deliberation by the Hearing Panel:
- In numbered paragraphs, list your witnesses in the order that you will call them and estimated length of time it will take to hear their entire evidence, including cross-examination and questions from the Hearing Panel:

<u>Number</u>	<u>Witness' Name</u>	<u>Estimated Time</u>
1.		
- Is there any reason why the witness list cannot be circulated to the Hearing Panel?
- How long will it take you to make your opening and closing submissions on the issue of finding?

17. Do you believe the Hearing Panel would be assisted by hearing expert evidence by a panel of experts on any particular issue?

[Date]

*[Signature of most responsible counsel
who will be attending at the hearing]*

FORM 6B - REPORT OF PRESIDING OFFICER

[General Heading]

REPORT OF PRESIDING OFFICER

A pre-hearing conference was held in this matter on [date]. In attendance were [list people and their capacity].

Agreements

The parties agreed that the following facts can be assumed to be correct for the purpose of the hearing:

[list facts]

The parties agreed that the following documents can be admitted in the hearing on consent:

[list documents]

Directions and Orders

The outstanding pre-hearing motions and the dates that they will be heard are as follows:

<u>Number</u>	<u>Nature of Motion</u>	<u>Date to be Heard</u>
1.		

The following motions will be argued at the hearing itself:

<u>Number</u>	<u>Nature of Motion</u>	<u>Estimate Length of Argument</u>
1.		

Other than for information that is discovered after the conference, disclosure is now complete [or will be completed by (date)].

The following documents brief(s) will be delivered before the hearing:

<u>Number</u>	<u>Description</u>	<u>Party Preparing</u>	<u>Date to be Delivered</u>
1.			

The Hearing Panel may/should not [choose one] review them before the hearing.

The following written arguments and book of authorities will be delivered before the hearing:

<u>Number</u>	<u>Description</u>	<u>Party Preparing</u>	<u>Date to be Delivered</u>
1.			

The Hearing Panel may/should not [choose one] review them before the hearing.

The hearing is scheduled to begin on *[date]* for *[number]* day(s).

The proposed schedule for the hearing is as follows:

<u>Date</u>	<u>Motions/Arguments/Witnesses</u>	<u>Estimated Length of Time</u>
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The witnesses will be immediately available when their evidence is reached on the day scheduled for their testimony and will be available on any following days. There are no other matters anticipated to occur during the hearing itself.

Other Matters

[Insert any other matters the parties should be aware of]

The parties are reminded of the provisions of subrule 6.03(4) regarding notifying the presiding officer of any circumstances that would materially affect the conduct of the hearing.

[Date]

[Signature of Presiding Officer]

To: *[list parties' counsel]*