

Publisher's Note

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James T. Casey, Q.C.

The Regulation of Professions in Canada

The *Regulation of Professions in Canada* is the only work which provides a comprehensive synthesis of the law relating to the regulation of professions in Canada, particularly as it applies to the issues of discipline and licensing. This work reviews both the legislative framework — federally, provincially and constitutionally — and the significant body of case law that interprets this subject.

This release features updates to the case law and commentary in chapters 3 (The Canadian Charter of Rights and Freedoms), 4 (Jurisdiction of the Tribunal Over the Professional), 6 (Compliance with Statutory Provisions), 7 (The Applicability of the Duty of Fairness), 8 (Procedural Rights at a Disciplinary Hearing), 11 (Evidentiary Issues), 13 (Professional Misconduct), 14 (Sentencing), 15 (Appeals and Judicial Review), and 16 (Admission to Professions).

Highlights

Updates to the case law and commentary include the following:

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The Canadian Charter of Rights and Freedoms — Section 2(b) — Freedom of Expression - The Alberta Court of Appeal upheld findings of unprofessional conduct based on improper advertising and publications attacking the College and other members. The expressive rights protected under section 2(b) of the Charter require the College to tolerate a degree of criticism. However, the extreme language and the systematic nature of exaggeration and falsehoods justified the findings of unprofessional conduct. The findings represented a proportionate balancing of the impact on the professional's freedom of expression against the College's objectives of maintaining the integrity of the profession and appropriate standards of professional conduct: *Zuk v. Alberta Dental Association & College*, 2018 ABCA 270, 2018 CarswellAlta 1662 (Alta. C.A.).

Compliance with Statutory Provisions — The principle of strict compliance and strict construction of professional discipline legislation has evolved over time. Currently there is an enhanced focus on interpreting professional discipline legislation with a view to protecting the public interest in the proper regulation of the professions. A balancing of the interests of public protection and ensuring fairness to investigated members is required: *Abdul v. Ontario College of Pharmacists*, 2018 ONCA 699, 2018 CarswellOnt 13969 (Ont. C.A.).

Evidentiary Issues — Other Evidentiary Issues — The doctrine of *functus officio* was not applied in circumstances where the Superintendent of Real Estate was given the statutory power to direct that a regulator issue a discipline hearing notice even though the regulator had previously determined that no discipline hearing was warranted: *Superintendent of Real Estate v. Real Estate Council of B.C.*, 2018 BCSC 1500, 2018 Carswell BC 2339 (B.C. S.C.).