

1. On March 31, 2023, a meeting of the Hearing Committee, composed per s. 63 of the *Paramedics Act*, S.N.S. 2015, c. 33 (the “Act”), considered a joint application for the revocation of the Respondent’s licensure submitted by both the College and the Respondent, Mr. Robin Jensen.
2. The issue before the Committee was whether to approve or reject the application to revoke Mr. Jensen’s license to practice paramedicine.
3. Section 74 of the *Paramedics Regulations* (the “Regulations”) determines the process by which an application of this nature may be approved or rejected by the Hearing Committee. This section reads as follows:

Consent revocation

74 (1) *A respondent who admits or does not contest the allegations set out in either of the following may, with the consent of the Registrar, submit a proposed consent revocation agreement to the Hearing Committee for approval:*

(a) a complaint; or

(b) a decision of an investigation committee under clause 67(6)(a).

(2) *A proposed consent revocation agreement must include allegations that, if proven, would result in a revocation of the respondent’s registration and licence.*

(3) *The Hearing Committee may accept or refuse to accept a proposed consent revocation agreement and must provide a written decision with reasons.*

(4) *A decision to accept a consent revocation agreement must in all respects be treated in the same manner as a revocation ordered by the Hearing Committee following a hearing, including disclosure and publication in accordance with Section 86.*

4. The first of the requirements under s. 74 is that the consent revocation must come before the Committee either by way of a complaint or a decision of the Investigation Committee that qualifies as decision made under s. 67(6)(a) of the Act.

5. Section 67(6)(a) reads as follows:

(6) If an investigation committee makes a determination under clause (4)(g), the investigation committee must do 1 of the following:

(a) with the respondent's consent, order 1 or both of the following:

(i) that the respondent receive a reprimand,

(ii) that conditions or restrictions be imposed on the respondent's licence;

6. In this context, the Hearing Committee reviewed a decision of the Investigation Committee dated February 15, 2022. The Investigation Committee determined that Mr. Jensen has displayed professional misconduct and/or incompetence in the performance of his duties as a paramedic. This was a disposition identified in s. 67(4)(g)(i)(a) and (c).

7. The consequent order of the Investigation Committee was an interim suspension, which is an order which restricts the Respondent's licence. This order falls under the orders described in s. 67(6)(a)(ii) which grants the Hearing Committee jurisdiction to consider a proposed consent revocation. The first requirement under s. 74(1)(b) has been satisfied.

8. The second requirement under s. 74(2) for the Hearing Committee to consider is that the proposed revocation agreement must include allegations that, if proven, would result in a revocation of the Respondent's registration and licence to practice paramedicine.

9. Central to this analysis are the four documents provided to the Hearing Committee by the College, namely:

- The Preliminary Assessment Report dated August 12, 2020;
- The Neuropsychological Report dated August 2021;
- The Competency Based Assessment Report, dated December 2021; and
- The decision of the Investigation Committee dated February 15, 2022.

10. The allegations contained in these documents assert that Mr. Jensen is incompetent to practice paramedicine due to his actions, or perhaps more accurately, his inability to act. There were serious competency concerns regarding the Respondent's decision-making ability which had the real possibility of endangering patient health.

11. Incompetence is defined in s. 2(1)(o) of the Act. This section reads:

(o) "incompetence" means a medical, physical, mental or emotional condition, disorder or addiction that renders or rendered a member unable to practice with competence or that may endanger or has endangered the health or safety of individuals.

12. The Investigation Committee found that the Respondent did not demonstrate competence in the practice of paramedicine. The risk of the Respondent making an error that may have a serious impact upon a vulnerable patient was too great to have him practicing paramedicine.

13. This finding by the Investigation Committee was uncontested by the Respondent. The Application for Consent Revocation dated February 13, 2023, duly signed by the Respondent, at para. 29 confirms that Mr. Jensen does not contest the allegation that he is incompetent to practice paramedicine, as found previously by the Investigation Committee.

14. Based on the findings of the Investigation Committee and the fact that, insofar as competency is concerned, this finding is not contested by the Respondent, the Hearing Committee finds that the second requirement under s. 74(2) has been satisfied. The Hearing Committee agrees that there are allegations which, if proven, would result in a revocation of the Respondent's licence.
15. The third and final statutory consideration the Hearing Committee must make is whether the Application for Consent Revocation should be accepted or rejected.
16. For this consideration, there are two guiding principles: the first is the statutory overarching objects of the College found in s. 4(1) of the Act.
17. The objects of the College per s. 4(1) are:

4 (1) The objects of the College are to

(a) serve and protect the public interest in the practice of paramedicine;

(b) preserve the integrity of the paramedic profession; and

(c) maintain public and member confidence in the ability of the profession to regulate the practice of paramedicine.

18. The first and greatest objective in s. 4(1) is that public must be protected in the practice of paramedicine. While not specifically statutorily-directed in the *Act* or *Regulations*, it is logical that the Hearing Committee acting under s. 74 can only approve an Application for Consent Revocation only if the public is protected and the revocation is in the best interest of the public and the profession.
19. This would be in accord with the previous decision of a differently-constituted panel of the Hearing Committee in 2021 in *CPNS v. d'Eon*.

20. The second principle is the common law concept of deference. This principle states that a higher decision-maker, in reviewing the decision of a lower decision-maker in the same case, should defer to the decision of the lower decision maker in most circumstances.

21. The *d'Eon* case adopted the reasoning found in the 2019 unreported case of *The College of Physicians and Surgeons v. Dr. Sarah Jones*. This case dealt with a settlement agreement as defined in the *Medical Practitioners' Regulations* which is roughly analogous to a settlement proposal to s. 70 in the *Paramedics Regulations*. Although there are slight procedural variations between the two sets of professional regulations, the principles in *Jones* are transferable to deliberations under s. 74 of the present *Paramedics Regulations*.

22. The factors in *Jones* which augur for deference are (with some modification for the present circumstances):

- If the lower-decision making body has a much more detailed knowledge of the facts than a Hearing Panel because of its involvement in investigating a complaint over an extended period of time;
- If the legislative framework ensures a rigorous and exacting approach to whether a complaint should be settled; and
- In general, settlement proposals should be encouraged as they permit the professional regulator and its committees to negotiate the resolution of complaints without delay and the expenses of a formal hearing. They also allow dispositions to be reached by negotiation which may not be possible in a formal hearing.

23. As held in *d'Eon* in a s. 74(1) consent revocation case, this deference is not absolute. A Hearing Panel such as this one does not just rubber-stamp an Application for Consent Revocation recommended by the College. Any such application must be consistent with the purposes of the regulatory body, first and foremost of which is the protection of the public. The public must be assured that genuine complaints are not concealed by a regulator. The professional regulator must be effective in protecting the public and in maintaining high standards among healthcare practitioners.
24. Such principles also require the fair treatment of regulated professionals who are subject to complaints. The numbers of practice-ready personnel must be maintained with good morale to be able to serve the public effectively.
25. In this case, the Hearing Committee finds that deference should be shown to the College's and the Respondent's joint request for licence revocation. The College as personified in the Registrar has a much more detailed knowledge of the facts in this case since it began more than three years ago. A framework exists to guide the Registrar as to whether the College should support a consent revocation. And in general, revocation agreements (analogous to settlement proposal) should be encouraged as minimizing both delay and expense and emphasizing negotiation.
26. The renovation application also does not offend the objectives of the College in s. 4(1).
27. The consent revocation application requests that a severe discipline be imposed upon a regulated professional- he will not be able to apply for reinstatement of his paramedic registration for two years from the date of this decision of the Hearing Committee.
28. In the event that Mr. Jensen does apply for reinstatement after two years, he will have to demonstrate competency and capacity to practice as a paramedic.

29. In the Hearing Committee's opinion, the decision protects the public and preserves the integrity of the profession. The public's confidence in the profession's ability to regulate itself will be intact. The application is therefore in accord with the objects of the College as set out in s. 4(1).

30. The application also provides that no costs will be imposed on Mr. Jensen. This is also found by the Hearing Committee to be appropriate and may have contributed to Mr. Jensen agreeing to be bound by the terms of the Application for Revocation of Licence.

31. The Hearing Committee therefore fully approves of the consent revocation application under s. 74(3) of the *Regulations*, making it an order of the Hearing Committee under s. 74(4). Publication of the decision will be pursuant to s. 86 of the *Regulations*.

32. The Hearing Committee thanks Mr. Jensen and counsel for their cooperation in resolving this matter. The Committee wishes Mr. Jensen all the best in his future endeavours.

Decision issued this 17th day of April, 2023.



Douglas J. Lloy, K.C., Chair



Alexa Desaulniers, Paramedic



William Hill, Paramedic

Attachments: Application for Consent Revocation
R. v. d'Eon