

9.4 Language Revisions to AVLIC Bylaws

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Questions? Concerns? Here's who to contact

Please direct all questions and/or concerns about the motions below to the coordinator of the PCRCP Implementation Task Force

- Colleen Friel: prcp@avlic.ca

RATIONALE for Special Resolutions #17-02 - #17-17: Throughout Section 6 of AVLIC's bylaws the terms 'Adjudication Panel', 'the Panel', and 'Discipline Panel' are used interchangeably. After consulting with AVLIC's legal council, George K. Bryce, it was decided that it would be best to choose one term to be used consistently. The term 'Disciplinary' was chosen. All Special Resolutions presented below seek to change terms such as 'Adjudication Panel', 'the Panel' or 'Discipline Panel' found within the language of the bylaw, to 'Disciplinary Panel'.

ADDITIONAL RATIONALE for Special Resolution #17-11, Bylaw 6.29 – Action by the Adjudication Panel: The additional intent of this Special Resolution is to fix an error found in Bylaw 6.29 (1)(iii) which states "impose limits or conditions on the practice of clinical counseling"...

As the practice of clinical counseling does not apply to AVLIC's membership, AVLIC's legal council, George K. Bryce, has advised that the phrase should be removed and replaced with "the practice of sign language interpreting".

9.4.1 Special Resolution #17-02 – Amend language found in Bylaw 6.1 - Definitions

I move that the language found in Bylaw 6.1 - Definitions, which currently states:

6.1 Definitions

(1) In addition to the definitions set out in Section 1.1, throughout this section:

- i) **“Adjudication Panel”** means a panel of members appointed by the Board pursuant to bylaw 6.4 to adjudicate the allegations against a member as set out in the citation issued pursuant to bylaw 6.23.

- ii) “Alternative dispute resolution” means any process a Complainant or a member, or both, may agree to participate in that provides a way to resolve a complaint other than holding a disciplinary hearing, and which may include mediation, arbitration or a restorative justice process as described in Division E – Alternative Dispute Resolution.

- iii) “Approved Affiliate Chapter” means an Affiliate Chapter that has been approved by the Board pursuant to bylaw 6.2 as having bylaws, rules or procedures that provide a mechanism to investigate and resolve a complaint, and conduct disciplinary hearings are substantially similar to the bylaws in this section.

- iv) “Association” means the Association of Visual Language Interpreters of Canada or any committee or person appointed by the Board to administer the applicable bylaw.

- v) “CoEGPC” means the *Code of Ethics and Guidelines for Professional Conduct* approved by the Board, and as may be amended from time to time.



- vi) "Complaint" means a communication that documents a Complainant's concerns about the conduct of a member that meets the requirements of bylaw 6.11.

- vii) "Complainant" means a person who has filed a complaint against a member under bylaw 6.11.

- viii) "Concern" means a communication that a Person with a Concern provides to the Association pursuant to bylaw 6.10, but which is not a complaint filed under bylaw 6.11.

- ix) "Inquiry Committee" means the committee appointed by the Board pursuant to bylaw 6.4 to investigate and try to resolve a complaint filed under bylaw 6.11.

- x) "Facilitated agreement" means a written agreement between the parties that is reached through an alternative dispute resolution process.

- xi) "Facilitator" means a person who has been appointed by the Inquiry Committee to be a facilitator, mediator or arbitrator for an alternative dispute resolution process.

- xii) "Member" means a Class A - Active Voting member of the Association.

- xiii) "Respondent member" means a member who has been named in a citation issued pursuant to bylaw 6.23.

- xiv) "Person with a Concern" means a person who has a concern about the conduct of a member and approaches the Association to try to resolve that concern informally under bylaw 6.10.

xv) “Subject member” means a member who has been named in a complaint filed under bylaw 6.11.

xvi) “Third party” means any person who is not a Complainant, a member, a Person with a Concern, nor a member of the Board, Inquiry Committee or Adjudication Panel.

be amended to read:

6.1 Definitions

(1) In addition to the definitions set out in Section 1.1, throughout this section:

- i) “**Disciplinary Panel**” means a panel of members appointed by the Board pursuant to bylaw 6.4 to adjudicate the allegations against a member as set out in the citation issued pursuant to bylaw 6.23.
- ii) “Alternative dispute resolution” means any process a Complainant or a member, or both, may agree to participate in that provides a way to resolve a complaint other than holding a disciplinary hearing, and which may include mediation, arbitration or a restorative justice process as described in Division E – Alternative Dispute Resolution.
- iii) “Approved Affiliate Chapter” means an Affiliate Chapter that has been approved by the Board pursuant to bylaw 6.2 as having bylaws, rules or procedures that provide a mechanism to investigate and resolve a complaint, and conduct disciplinary hearings are substantially similar to the bylaws in this section.
- iv) “Association” means the Association of Visual Language Interpreters of Canada or any committee or person appointed by the Board to administer the applicable bylaw.



- v) "CoEGPC" means the *Code of Ethics and Guidelines for Professional Conduct* approved by the Board, and as may be amended from time to time.

- vi) "Complaint" means a communication that documents a Complainant's concerns about the conduct of a member that meets the requirements of bylaw 6.11.

- vii) "Complainant" means a person who has filed a complaint against a member under bylaw 6.11.

- viii) "Concern" means a communication that a Person with a Concern provides to the Association pursuant to bylaw 6.10, but which is not a complaint filed under bylaw 6.11.

- ix) "Inquiry Committee" means the committee appointed by the Board pursuant to bylaw 6.4 to investigate and try to resolve a complaint filed under bylaw 6.11.

- x) "Facilitated agreement" means a written agreement between the parties that is reached through an alternative dispute resolution process.

- xi) "Facilitator" means a person who has been appointed by the Inquiry Committee to be a facilitator, mediator or arbitrator for an alternative dispute resolution process.

- xii) "Member" means a Class A - Active Voting member of the Association.

- xiii) "Respondent member" means a member who has been named in a citation issued pursuant to bylaw 6.23.



xiv) "Person with a Concern" means a person who has a concern about the conduct of a member and approaches the Association to try to resolve that concern informally under bylaw 6.10.

xv) "Subject member" means a member who has been named in a complaint filed under bylaw 6.11.

xvi) "Third party" means any person who is not a Complainant, a member, a Person with a Concern, nor a member of the Board, Inquiry Committee or Adjudication Panel.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.2 Special Resolution #17-03 – Amend language found in Bylaw 6.4 – Appointments, Policies and Procedures

I move that the language found in Bylaw 6.4 – Appointments, Policies and Procedures, which currently states:

6.4 Appointments, Policies and Procedures

(1) The Board may by ordinary resolution do the following:

- i) Appoint an Inquiry Committee, and name its chair, and such other persons as are necessary to administer the bylaws in Divisions C to E;
- ii) Appoint an **Adjudication** Panel, and name its chair, and such other persons as are necessary to administer the bylaws in Division F;
- iii) Maintain a roster of members who can be called on to sit as members of an **Adjudication** Panel, if a citation is issued pursuant to bylaw 6.23;
- iv) Approve such Policies and Procedures that are consistent with this section to provide guidance on how the bylaws in this section are to be administered.

(2) Notwithstanding the generality of subsection (1):

- i) The person who tries to help a Person with a Concern resolve a concern under bylaw 6.10 must not be appointed as a member of either
 - a. The Inquiry Committee that might subsequently investigate the resulting complaint under bylaw 6.11, or
 - b. An **Adjudication** Panel that might adjudicate a citation issued against a member pursuant to bylaw 6.23 flowing from that same concern, and
- ii) No member of the Inquiry Committee that investigated and attempted to resolve a complaint filed against a member under bylaw 6.11 may be appointed to an **Adjudication** Panel that is subsequently adjudicating a citation issued against that member pursuant to bylaw 6.23 based on that same complaint.

be amended to read:

6.4 Appointments, Policies and Procedures

(1) The Board may by ordinary resolution do the following:

- i) Appoint an Inquiry Committee, and name its chair, and such other persons as are necessary to administer the bylaws in Divisions C to E;
- ii) Appoint an **Disciplinary** Panel, and name its chair, and such other persons as are necessary to administer the bylaws in Division F;
- iii) Maintain a roster of members who can be called on to sit as members of a **Disciplinary** Panel, if a citation is issued pursuant to bylaw 6.23;
- iv) Approve such Policies and Procedures that are consistent with this section to provide guidance on how the bylaws in this section are to be administered.

(2) Notwithstanding the generality of subsection (1):

- i) The person who tries to help a Person with a Concern resolve a concern under bylaw 6.10 must not be appointed as a member of either
 - a. The Inquiry Committee that might subsequently investigate the resulting complaint under bylaw 6.11, or
 - b. An **Disciplinary** Panel that might adjudicate a citation issued against a member pursuant to bylaw 6.23 flowing from that same concern, and
- ii) No member of the Inquiry Committee that investigated and attempted to resolve a complaint filed against a member under bylaw 6.11 may be appointed to an **Disciplinary** Panel that is subsequently adjudicating a citation issued against that member pursuant to bylaw 6.23 based on that same complaint.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.3 Special Resolution #17-04 – Amend language found in Bylaw 6.5 – Confidentiality and record retention

I move that the language found in Bylaw 6.5 – Confidentiality and record retention, which currently states:

6.5 Confidentiality and record retention

(1) Except as otherwise directed or permitted in this or any other bylaw in this section, the Inquiry Committee, an **Adjudication** Panel or the Board must not disclose to a third party any documents or information:

- i) Obtained during an investigation of a complaint;
- ii) Concerning a resolution of a complaint or an attempt to resolve a complaint; or
- iii) Provided to the **Adjudication** Panel during a discipline hearing;

unless the person about whom that information relates or the appropriate committee, as the case may be, consents to such a disclosure.

(2) The Association shall keep:

- i) All records of an investigation of the Inquiry Committee,
- ii) All evidence presented to a **disciplinary** panel during a hearing; and
- iii) All decisions of the **Adjudication** Panel.

for a period of not less than seven years, but if the circumstances warrant and after consulting with legal counsel, the Association may keep these records for a longer period of time that counsel may advise.

be amended to read:

6.5 Confidentiality and record retention

(1) Except as otherwise directed or permitted in this or any other bylaw in this section, the Inquiry Committee, a **Disciplinary** Panel or the Board must not disclose to a third party any documents or information:

- i) Obtained during an investigation of a complaint;
- ii) Concerning a resolution of a complaint or an attempt to resolve a complaint; or
- iii) Provided to the **Disciplinary** Panel during a disciplinary hearing;

unless the person about whom that information relates or the appropriate committee, as the case may be, consents to such a disclosure.

(2) The Association shall keep:

- i) All records of an investigation of the Inquiry Committee,
- ii) All evidence presented to **the Disciplinary Panel** during a hearing; and
- iii) All decisions of the **Disciplinary Panel**.

for a period of not less than seven years, but if the circumstances warrant and after consulting with legal counsel, the Association may keep these records for a longer period of time that counsel may advise.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.4 Special Resolution #17-05 – Amend language found in Bylaw 6.14 – Committee’s remedial action by consent and consent agreements

I move that the language found in Bylaw 6.14 – Committee’s remedial action by consent and consent agreements, which currently states:

6.14 Committee’s remedial action by consent and consent agreements

(1) In relation to a matter investigated under this section, the Inquiry Committee may request the subject member to do one or more of the following:

- i) Undertake not to repeat the conduct to which the matter relates;
- ii) Undertake to take educational courses specified by the Inquiry Committee;
- iii) Accept a reprimand;
- iv) Accept a limit or condition on the member’s practice, including a suspension for a defined period of time;
- v) Accept a cancellation of the member’s registration;
- vi) To pay a fine in an amount not exceeding the maximum fine established under bylaw 6.29(1)(f);
- vii) Undertake or consent to any other action specified by the Inquiry Committee.

(2) If the committee believes a subject member's undertaking, acceptance or consent should be documented, it may ask the member to enter into a consent agreement.

(3) A consent agreement must:

- i) Be in writing and be signed by the subject member and the chair of the committee;
- ii) Include an undertaking, acceptance or consent given by the subject member under subsection (1);
- iii) Specify the length of time that an undertaking, acceptance or consent is binding on the subject member;
- iv) Specify the procedure that the subject member may follow to be released from an undertaking, acceptance or consent; and
- v) Specify which terms of the consent agreement may be disclosed to the public, and the timing of such disclosure.

(4) If the subject member accepts a proposal from the committee received under subsection (1):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the chair of the Inquiry Committee must cancel any issued citation and the hearing if one has been scheduled.

(5) If the subject member rejects a proposal received under subsection (1):

- i) A hearing of the citation must proceed as though the proposal had not been made; and
- ii) The **Adjudication** Panel must not consider the member's admissions or consents, if any, in determining the matter or in making an order under bylaw 6.29.

be amended to read:

6.14 Committee's remedial action by consent and consent agreements

(1) In relation to a matter investigated under this section, the Inquiry Committee may request the subject member to do one or more of the following:

- i) Undertake not to repeat the conduct to which the matter relates;
- ii) Undertake to take educational courses specified by the Inquiry Committee;
- iii) Accept a reprimand;
- iv) Accept a limit or condition on the member's practice, including a suspension for a defined period of time;
- v) Accept a cancellation of the member's registration;
- vi) To pay a fine in an amount not exceeding the maximum fine established under bylaw 6.29(1)(f);
- vii) Undertake or consent to any other action specified by the Inquiry Committee.

(2) If the committee believes a subject member's undertaking, acceptance or consent should be documented, it may ask the member to enter into a consent agreement.

(3) A consent agreement must:

- i) Be in writing and be signed by the subject member and the chair of the committee;
- ii) Include an undertaking, acceptance or consent given by the subject member under subsection (1);
- iii) Specify the length of time that an undertaking, acceptance or consent is binding on the subject member;
- iv) Specify the procedure that the subject member may follow to be released from an undertaking, acceptance or consent; and
- v) Specify which terms of the consent agreement may be disclosed to the public, and the timing of such disclosure.

(4) If the subject member accepts a proposal from the committee received under subsection (1):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the chair of the Inquiry Committee must cancel any issued citation and the hearing if one has been scheduled.

(5) If the subject member rejects a proposal received under subsection (1):

- i) A hearing of the citation must proceed as though the proposal had not been made; and
- ii) The **Disciplinary** Panel must not consider the member's admissions or consents, if any, in determining the matter or in making an order under bylaw 6.29.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.5 Special Resolution #17-06 – Amend language found in Bylaw 6.15 – Subject member's proposal and consent agreement

I move that the language found in Bylaw 6.15 – Subject member's proposal and consent agreement, which currently states:

6.15 Subject member's proposal and consent agreement

(1) A subject member may give the Inquiry Committee a written proposal at any time before the commencement of a hearing under bylaw 6.26:

- i) Admitting the nature of the complaint or other matter that is to be the subject of the hearing;
- ii) Consenting to the making of an order described in bylaw 6.14 as set out in the proposal;
- iii) Consenting to indemnify the Association for cost of an investigation under Division D in an amount not to exceed the costs for the inquiry as specified in bylaw 6.31; and
- iv) If the member gives the proposal to the Inquiry Committee less than 7 days before the hearing is scheduled to commence, consenting also to indemnify the Association for the cost of preparing for the hearing in an amount not to exceed one half the costs to that date of preparing for the hearing.

(2) The Inquiry Committee may accept or reject a proposal received under subsection (1) based on the investigations of the complaint.

(3) If the Inquiry Committee accepts a proposal from the subject member received under subsection (1):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the chair of the Inquiry Committee must cancel any issued citation and the hearing if one has been scheduled.

(4) If the Inquiry Committee rejects a proposal received under subsection (1):

- i) a hearing of the citation must proceed as though the proposal had not been made; and
- ii) the **Adjudication** Panel must not consider the member's admissions or consents in determining the matter or in making an order under bylaw 6.26.

(5) If the discipline hearing has commenced under bylaw 6.26 before the subject member has given the Inquiry Committee a written proposal under subsection (1):

- i) The member may give to the Inquiry Committee a written proposal
 - a. Described in clauses (1)(a) to (c); and
 - b. Which also consents to indemnify the Association for preparing and conducting the hearing in an amount not to exceed the actual costs of preparing for and conducting the hearing, and
- ii) The Inquiry Committee may accept or reject the proposal in its discretion.

(6) If the Inquiry Committee accepts a proposal under subsection (5):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the **Adjudication** Panel must cancel the hearing.

(7) If the Inquiry Committee rejects a proposal received under subsection (5):

- i) A hearing of the citation must proceed as though the proposal had not been made; and
- ii) The **Adjudication** Panel must not consider the member's admission or consent in determining the matter or in making an order under bylaws 6.29 or 6.31.

be amended to read:

6.15 Subject member's proposal and consent agreement

(1) A subject member may give the Inquiry Committee a written proposal at any time before the commencement of a hearing under bylaw 6.26:

- i) Admitting the nature of the complaint or other matter that is to be the subject of the hearing;
- ii) Consenting to the making of an order described in bylaw 6.14 as set out in the proposal;
- iii) Consenting to indemnify the Association for cost of an investigation under Division D in an amount not to exceed the costs for the inquiry as specified in bylaw 6.31; and
- iv) If the member gives the proposal to the Inquiry Committee less than 7 days before the hearing is scheduled to commence, consenting also to indemnify the Association for the cost of preparing for the hearing in an amount not to exceed one half the costs to that date of preparing for the hearing.

(2) The Inquiry Committee may accept or reject a proposal received under subsection (1) based on the investigations of the complaint.

(3) If the Inquiry Committee accepts a proposal from the subject member received under subsection (1):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the chair of the Inquiry Committee must cancel any issued citation and the hearing if one has been scheduled.

(4) If the Inquiry Committee rejects a proposal received under subsection (1):

- i) a hearing of the citation must proceed as though the proposal had not been made; and
- ii) the **Disciplinary** Panel must not consider the member's admissions or consents in determining the matter or in making an order under bylaw 6.26.

(5) If the disciplinary hearing has commenced under bylaw 6.26 before the subject member has given the Inquiry Committee a written proposal under subsection (1):

- i) The member may give to the Inquiry Committee a written proposal
 - a. Described in clauses (1)(a) to (c); and
 - b. Which also consents to indemnify the Association for preparing and conducting the hearing in an amount not to exceed the actual costs of preparing for and conducting the hearing, and
- ii) The Inquiry Committee may accept or reject the proposal in its discretion.

(6) If the Inquiry Committee accepts a proposal under subsection (5):

- i) The Inquiry Committee must within 30 days enter into a consent agreement with the member that is consistent with the proposal; and
- ii) On completion of the consent agreement, the **Disciplinary** Panel must cancel the hearing.

(7) If the Inquiry Committee rejects a proposal received under subsection (5):

- i) A hearing of the citation must proceed as though the proposal had not been made; and
- ii) The **Disciplinary** Panel must not consider the member's admission or consent in determining the matter or in making an order under bylaws 6.29 or 6.31.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.6 Special Resolution #17-07 – Amend language found in Bylaw 6.23 – Citation for a disciplinary hearing

I move that the language found in Bylaw 6.23 – Citation for a disciplinary hearing, which currently states:

6.23 Citation for a disciplinary hearing

(1) Where as a result of its investigation, the Inquiry Committee determines it is necessary to do so, it may issue a citation that:

- i) Names the affected member as the Respondent member;
- ii) Describes the nature of the complaint or other matter that is to be the subject of the hearing, including the particulars of any evidence in support of that subject matter;
- iii) Specifies the date, time and place of the hearing, if known; and
- iv) Advises the Respondent member that the **Adjudication** Panel is entitled to proceed with the hearing in his or her absence.

(2) The chair of the Inquiry Committee shall have a citation either delivered to the Respondent member by personal service or sent by registered mail to the Respondent member at the last known address for that person not fewer than 30 days before the date of the hearing.

(3) Where the subject matter of a citation is a complaint, the chair of the Inquiry Committee shall notify the complainant in writing of the date, time and place of the hearing not fewer than 14 days before the date of the hearing.

(4) The Inquiry Committee may direct that a citation that has been issued be subsequently cancelled if the committee determines that a hearing by the **Adjudication** Panel is not required.

(5) The Inquiry Committee may do the following:

- i) Join one or more complaints or other matters which are to be the subject of a discipline hearing in one citation as appropriate in the circumstances;
- ii) Sever one or more complaints or other matters which are to be the subject of a discipline hearing as appropriate in the circumstances;
- iii) Amend a citation issued under this bylaw.

(6) Where a citation is amended under clause (5)(c) prior to a discipline hearing, the amended citation shall be delivered to the Respondent member by personal service or sent by regular mail to the Respondent member at the last known address for the person not fewer than 30 days before the date of the hearing, unless the Respondent member consents to a shorter notice period.

(7) Where a citation is amended under clause (5)(c) prior to a discipline hearing and the amended citation changes the date, time or place of the hearing, the chair of the Inquiry Committee shall notify any complainant of the amendment not fewer than 14 days before the date of the hearing, unless the Respondent member consents to a shorter notice period.

be amended to read:

6.23 Citation for a disciplinary hearing

(1) Where as a result of its investigation, the Inquiry Committee determines it is necessary to do so, it may issue a citation that:

- i) Names the affected member as the Respondent member;
- ii) Describes the nature of the complaint or other matter that is to be the subject of the hearing, including the particulars of any evidence in support of that subject matter;
- iii) Specifies the date, time and place of the hearing, if known; and
- iv) Advises the Respondent member that the **Disciplinary** Panel is entitled to proceed with the hearing in his or her absence.

(2) The chair of the Inquiry Committee shall have a citation either delivered to the Respondent member by personal service or sent by registered mail to the Respondent member at the last known address for that person not fewer than 30 days before the date of the hearing.

(3) Where the subject matter of a citation is a complaint, the chair of the Inquiry Committee shall notify the complainant in writing of the date, time and place of the hearing not fewer than 14 days before the date of the hearing.

(4) The Inquiry Committee may direct that a citation that has been issued be subsequently cancelled if the committee determines that a hearing by the **Disciplinary** Panel is not required.

(5) The Inquiry Committee may do the following:

- i) Join one or more complaints or other matters which are to be the subject of a disciplinary hearing in one citation as appropriate in the circumstances;
- ii) Sever one or more complaints or other matters which are to be the subject of a disciplinary hearing as appropriate in the circumstances;
- iii) Amend a citation issued under this bylaw.

(6) Where a citation is amended under clause (5)(c) prior to a disciplinary hearing, the amended citation shall be delivered to the Respondent member by personal service or sent by regular mail to the Respondent member at the last known address for the person not fewer than 30 days before the date of the hearing, unless the Respondent member consents to a shorter notice period.

(7) Where a citation is amended under clause (5)(c) prior to a disciplinary hearing and the amended citation changes the date, time or place of the hearing, the chair of the Inquiry Committee shall notify any complainant of the amendment not fewer than 14 days before the date of the hearing, unless the Respondent member consents to a shorter notice period.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.7 Special Resolution #17-08 – Amend language found in Bylaw 6.26 – Discipline hearings

I move that the language found in Bylaw 6.26 – Discipline hearings, which currently states:

6.26 Discipline hearings

(1) The **Adjudication** Panel shall hear and determine a matter that has been set for hearing by a citation issued pursuant to bylaw 6.23.

(2) The Respondent member, an investigator, any member of the Inquiry Committee, or any other person authorized by the **Adjudication** Panel may appear as parties and with counsel at a discipline hearing.

(3) Information about the date, time and subject matter of the hearing shall be provided to any person on request.

(4) A discipline hearing shall be in public unless:

- i) The Complainant, a witness or the Respondent member requests the **Adjudication** Panel hold the hearing in private; and
- ii) The **Adjudication** Panel is satisfied that a private hearing would be appropriate in the circumstances.

(5) The **Adjudication** Panel may order the Respondent member or any other person to attend at a hearing to give evidence and to produce records in the possession of or under the control of the Respondent member or person.

(6) The **Adjudication** Panel shall provide notice by registered mail or by personal service to a person who is required to attend a hearing.

be amended to read:

6.26 **Disciplinary** hearings

(1) The **Disciplinary** Panel shall hear and determine a matter that has been set for hearing by a citation issued pursuant to bylaw 6.23.



(2) The Respondent member, an investigator, any member of the Inquiry Committee, or any other person authorized by the **Disciplinary** Panel may appear as parties and with counsel at a disciplinary hearing.

(3) Information about the date, time and subject matter of the hearing shall be provided to any person on request.

(4) A disciplinary hearing shall be in public unless:

- i) The Complainant, a witness or the Respondent member requests the **Disciplinary** Panel hold the hearing in private; and
- ii) The **Disciplinary** Panel is satisfied that a private hearing would be appropriate in the circumstances.

(5) The **Disciplinary** Panel may order the Respondent member or any other person to attend at a hearing to give evidence and to produce records in the possession of or under the control of the Respondent member or person.

(6) The **Disciplinary** Panel shall provide notice by registered mail or by personal service to a person who is required to attend a hearing.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.8 Special Resolution #17-09 – Amend language found in Bylaw 6.27 – Respondent member resigns, fails to renew or does not attend a hearing

I move that the language found in in Bylaw 6.27 – Respondent member resigns, fails to renew or does not attend a hearing, which currently states:

6.27 Respondent member resigns, fails to renew or does not attend a hearing

(1) For the purposes of this bylaw, “absent respondent” means a Respondent member who has:

- i) Resigned his or her membership;
- ii) Failed to renew his or her membership;
- iii) Failed to attend a discipline hearing; or
- iv) Left a discipline hearing before it is completed.

(2) If the **Adjudication** Panel is satisfied that an absent respondent has been:

- i) Served with the citation or notice of discipline hearing;
- ii) Provided with an opportunity to be heard; and
- iii) Informed the hearing may continue in his or her absence;

the Panel may order the hearing to continue in the absence of the absent respondent and, on completion of the hearing, **the panel** may act or make any order it could have made if the absent respondent had continued to be a member or had attended the hearing.

(3) For clarity, the fact that a Respondent member:

- i) Resigns or failed to renew his or her membership in the Association, and, therefore, ceases to be a member under bylaw 4; or
- ii) Fails to attend or leaves a hearing;

does not automatically mean that the **Adjudication** Panel no longer has the jurisdiction to continue the hearing into that absent respondent’s conduct, and **the Panel** may take such actions or make such decisions as it would otherwise be able to take or make under this Division.

be amended to read:

6.27 Respondent member resigns, fails to renew or does not attend a hearing

(1) For the purposes of this bylaw, “absent respondent” means a Respondent member who has:

- i) Resigned his or her membership;
- ii) Failed to renew his or her membership;
- iii) Failed to attend a disciplinary hearing; or
- iv) Left a disciplinary hearing before it is completed.

(2) If the **Disciplinary** Panel is satisfied that an absent respondent has been:

- i) Served with the citation or notice of disciplinary hearing;
- ii) Provided with an opportunity to be heard; and
- iii) Informed the hearing may continue in his or her absence;

the **Disciplinary** Panel may order the hearing to continue in the absence of the absent respondent and, on completion of the hearing, the **Disciplinary** panel may act or make any order it could have made if the absent respondent had continued to be a member or had attended the hearing.

(3) For clarity, the fact that a Respondent member:

- i) Resigns or failed to renew his or her membership in the Association, and, therefore, ceases to be a member under bylaw 4; or
- ii) Fails to attend or leaves a hearing;

does not automatically mean that the **Disciplinary** Panel no longer has the jurisdiction to continue the hearing into that absent respondent's conduct, and the **Disciplinary** Panel may take such actions or make such decisions as it would otherwise be able to take or make under this Division.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.9 Special Resolution #17-10 – Amend language found in Bylaw 6.28 – Scope of inquiry

I move that the language found in Bylaw 6.28 – Scope of inquiry, which currently states:

6.28 Scope of inquiry

(1) The **Adjudication** Panel is not limited to inquiry into only that conduct of the Respondent member that is described in the citation, but may also inquire into other conduct of the member that is related or similar to the allegations described in the citation.

(2) If the **Adjudication** Panel proceeds under subsection (1), the Respondent member may request an adjournment of the hearing, and that request may be granted if the committee considers it is necessary to do so in fairness to the member.

be amended to read:

6.28 Scope of inquiry

(1) The **Disciplinary** Panel is not limited to inquiry into only that conduct of the Respondent member that is described in the citation, but may also inquire into other conduct of the member that is related or similar to the allegations described in the citation.

(2) If the **Disciplinary** Panel proceeds under subsection (1), the Respondent member may request an adjournment of the hearing, and that request may be granted if the committee considers it is necessary to do so in fairness to the member.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.10 Special Resolution #17-11 – Amend language found in Bylaw 6.29 – Action by the Adjudication Panel

I move that the language found in Bylaw 6.29 – Action by the Adjudication Panel, which currently states:

6.29 Action by the **Adjudication** Panel

(1) On completion of a hearing, the **Adjudication** Panel may, by order, do one or more of the following:

- i) Dismiss the matter;
- ii) Reprimand the Respondent member;
- iii) Impose limits or conditions on **the practice of clinical counseling** by the Respondent member, including practicing under supervision for a defined period of time;
- iv) Suspend the registration of the Respondent member for a defined period of time;
- v) Cancel the registration of the Respondent member;
- vi) Fine the Respondent member in an amount not to exceed \$25,000;
- vii) Assess costs or part of the costs of the investigation of the Respondent member's conduct and the hearing of the citation.

(2) An order of the **Adjudication** Panel under subsection (1) shall be in writing and shall be delivered to the Respondent member and to the complainant, if any.

(3) Unless the **Adjudication** Panel directs otherwise, the chair of the Inquiry Committee may disclose to any person on request:

- i) An order of the **Adjudication** Panel under subsection (1); or
- ii) Any reasons the panel may issue in relation to the results of a discipline hearing.

be amended to read:

6.29 Action by the **Disciplinary** Panel

(1) On completion of a hearing, the **Disciplinary** Panel may, by order, do one or more of the following:

- i) Dismiss the matter;
- ii) Reprimand the Respondent member;
- iii) Impose limits or conditions on the practice of **sign language interpretation** by the Respondent member, including practicing under supervision for a defined period of time;
- iv) Suspend the registration of the Respondent member for a defined period of time;
- v) Cancel the registration of the Respondent member;
- vi) Fine the Respondent member in an amount not to exceed \$25,000;
- vii) Assess costs or part of the costs of the investigation of the Respondent member's conduct and the hearing of the citation.

(2) An order of the **Disciplinary** Panel under subsection (1) shall be in writing and shall be delivered to the Respondent member and to the complainant, if any.

(3) Unless the **Disciplinary** Panel directs otherwise, the chair of the Inquiry Committee may disclose to any person on request:

- i) An order of the **Disciplinary** Panel under subsection (1); or
- ii) Any reasons the panel may issue in relation to the results of a disciplinary hearing.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.11 Special Resolution #17-12 – Amend language found in Bylaw 6.30 – Penalty Hearing

I move that the language found in Bylaw 6.30 – Penalty Hearing, which currently states:

6.30 Penalty Hearing

(1) If the **Adjudication** Panel determines that a Respondent member is guilty of an allegation set out in a citation, it must hold a later and separate hearing on the question of the appropriate

penalty to apply as per bylaw 6.29, unless the member agrees that the penalty hearing can be held sooner.

(2) The **Adjudication** Panel may consider a request from the Respondent member or the Inquiry Committee to hold a later, separate hearing on the question of penalty.

(3) In determining the penalty to be imposed on a Respondent member after making a determination on the facts, the **Adjudication** Panel may consider a previous relevant disciplinary decision regarding the member or an undertaking or consent to a reprimand given by the member under this Part.

be amended to read:

6.30 Penalty Hearing

(1) If the **Disciplinary** Panel determines that a Respondent member is guilty of an allegation set out in a citation, it must hold a later and separate hearing on the question of the appropriate penalty to apply as per bylaw 6.29, unless the member agrees that the penalty hearing can be held sooner.

(2) The **Disciplinary** Panel may consider a request from the Respondent member or the Inquiry Committee to hold a later, separate hearing on the question of penalty.

(3) In determining the penalty to be imposed on a Respondent member after making a determination on the facts, the **Disciplinary** Panel may consider a previous relevant disciplinary decision regarding the member or an undertaking or consent to a reprimand given by the member under this Part

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.12 Special Resolution #17-13 – Amend language found in Bylaw 6.31 – Costs

I move that the language found in Bylaw 6.31 – Costs, which currently states:

6.31 Costs

(1) Costs awarded under clause 6.29(1)(g) must not exceed, in total:

- i) 50% of the total costs of the investigation leading up to the hearing, including legal costs;
and
- ii) 50% of the actual costs for legal representation during the hearing.

(2) In making an order for an assessment of costs under clause 6.29(1)(g), the **Adjudication** Panel may receive submissions on costs in writing or hold a separate hearing.

be amended to read:

6.31 Costs

(1) Costs awarded under clause 6.29(1)(g) must not exceed, in total:

- i) 50% of the total costs of the investigation leading up to the hearing, including legal costs;
and
- ii) 50% of the actual costs for legal representation during the hearing.

(2) In making an order for an assessment of costs under clause 6.29(1)(g), the **Disciplinary** Panel may receive submissions on costs in writing or hold a separate hearing

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.13 Special Resolution #17-14 – Amend language found in Bylaw 6.32 – Panel decision

I move that the language found in Bylaw 6.32 – Panel decision, which currently states:

6.32 Panel decision

(1) The **Adjudication** Panel may give its decision on the matter in sign language or orally at the end of the hearing, but if **the Panel's** decision will be issued later in writing, it shall be so issued as soon as practical after the hearing, but not less than 60 days after the hearing.

(2) **The Panel's** written decision must:

- i) Be written in a manner that protects the personal privacy of the third parties, and is suitable for public disclosure in full;
- ii) Include the names of **the panel** members issuing the decision;
- iii) Identify the parties in the proceeding, and their legal counsel or representatives, including the Respondent;
- iv) Not include the names of a complainant or any witnesses, except when they have appeared at an open hearing in an official capacity;
- v) Not include other possible personal identifiers or health care information of a complainant or a third party, except where necessary to adequately explain the reasons for the decision;
- vi) Be written in plain language.

(3) A decision of an **Adjudication** Panel does not have to be unanimous, but must be in writing and signed by each concurring member.

(4) **A Panel** member not concurring may make a minority decision, which may be issued separately from the majority decision, but must be issued within 60 days of the hearing.

(5) A decision of **the Panel** under this bylaw is final and conclusive, and is not open to question or review in any court, and proceedings by or before **the Panel** shall not be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court.

be amended to read:

6.32 **Disciplinary** Panel decision

(1) The **Disciplinary** Panel may give its decision on the matter in sign language or orally at the end of the hearing, but if the **Disciplinary** Panel's decision will be issued later in writing, it shall be so issued as soon as practical after the hearing, but not less than 60 days after the hearing.

(2) The **Disciplinary** Panel's written decision must:

- i) Be written in a manner that protects the personal privacy of the third parties, and is suitable for public disclosure in full;
- ii) Include the names of the **Disciplinary Panel** members issuing the decision;
- iii) Identify the parties in the proceeding, and their legal counsel or representatives, including the Respondent;
- iv) Not include the names of a complainant or any witnesses, except when they have appeared at an open hearing in an official capacity;
- v) Not include other possible personal identifiers or health care information of a complainant or a third party, except where necessary to adequately explain the reasons for the decision;
- vi) Be written in plain language.

(3) A decision of a **Disciplinary** Panel does not have to be unanimous, but must be in writing and signed by each concurring member.

(4) A **Disciplinary** Panel member not concurring may make a minority decision, which may be issued separately from the majority decision, but must be issued within 60 days of the hearing.

(5) A decision of the **Disciplinary** Panel under this bylaw is final and conclusive, and is not open to question or review in any court, and proceedings by or before the **Disciplinary** Panel shall not be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise in any court.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.14 Special Resolution #17-15 – Amend language found in Bylaw 6.33 – Panel remains active

I move that the language found in Bylaw 6.33 – Panel remains active, which currently states:

6.33 Panel remains active

(1) Until the **Adjudication** Panel releases its final written decision under bylaw 6.32, **the Panel** remains active, is seized of the matter and may re-open the hearing at the request of the parties and as may be required.

be amended to read:

6.33 Disciplinary Panel remains active

(1) Until the **Disciplinary** Panel releases its final written decision under bylaw 6.32, the **Disciplinary** Panel remains active, is seized of the matter and may re-open the hearing at the request of the parties and as may be required.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.15 Special Resolution #17-16 – Amend language found in Bylaw 6.34 – Monitoring compliance with disciplinary orders

I move that the language found in Bylaw 6.34 – Monitoring compliance with disciplinary orders, which currently states:

6.34 Monitoring compliance with disciplinary orders

(1) The chair of the Inquiry Committee shall monitor a Respondent member's compliance with an order the **Adjudication** Panel has issued pursuant to bylaws 6.29 or 6.31.

(2) If the chair of the Inquiry Committee determines that a member has not complied with an **Adjudication** Panel order, the chair must so report the matter to the Inquiry Committee, with or without recommendations.

be amended to read:

6.34 Monitoring compliance with disciplinary orders

(1) The chair of the Inquiry Committee shall monitor a Respondent member's compliance with an order the **Disciplinary** Panel has issued pursuant to bylaws 6.29 or 6.31.

(2) If the chair of the Inquiry Committee determines that a member has not complied with a **Disciplinary** Panel order, the chair must so report the matter to the Inquiry Committee, with or without recommendations.

MOVER: Colleen Friel

SECONDER: Catherine Maier

9.4.16 Special Resolution #17-17 – Amend language found in Bylaw 6.35 - Failure to comply with a disciplinary order

I move that the language found in Bylaw 6.35 - Failure to comply with a disciplinary order
, which currently states:

6.35 Failure to comply with a disciplinary order

(1) If the Inquiry Committee concludes that a Respondent member has not complied with an **Adjudication** Panel order issued pursuant to bylaws 6.29 or 6.31, the committee may:

- i) Direct that the member be suspended until such time as the member complies with the order; or
- ii) Take such other actions as may be permitted under this section.

be amended to read:

6.35 Failure to comply with a disciplinary order

(1) If the Inquiry Committee concludes that a Respondent member has not complied with a **Disciplinary** Panel order issued pursuant to bylaws 6.29 or 6.31, the committee may:

- i) Direct that the member be suspended until such time as the member complies with the order; or
- ii) Take such other actions as may be permitted under this section.

MOVER: Colleen Friel

SECONDER: Catherine Maier