

**Summary of Draft Minister’s Regulations proposed under the
Condominium Management Services Act, 2015**

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Notice

This is a summary of draft Minister’s regulations proposed under the Condominium Management Services Act, 2015. This summary is intended to facilitate dialogue about the proposed regulations. You are encouraged to also review the Act, Ontario Regulation 123/17 and the draft Minister’s regulations, which contain details not included in this summary. Should the decision be made to proceed with the proposals, the comments received during this consultation will be considered during the preparation of the final regulations.

Summary of Draft Minister's Regulations proposed under the Condominium Management Services Act, 2015

Introduction

The Protecting Condominium Owners Act, 2015 (PCOA) received Royal Assent on December 3, 2015, marking the first overhaul of the province's condo law in over 16 years. The PCOA makes substantial amendments to the Condominium Act, 1998 (Condo Act). It also enacts the Condominium Management Services Act, 2015 (CMSA), which regulates and provides for the licensing of condo managers and condo management providers in Ontario.

The Ministry of Government and Consumer Services has developed draft Minister's regulations to support the implementation of the CMSA. This posting makes the draft Minister's regulations available for public comment. The following information provides a plain-language summary of the draft Minister's regulations proposed under the CMSA which are intended to take effect on February 1, 2018.

Additional information about the regulation and licensing of condo managers and condo management providers can be found in the [General Regulation](#) filed under the [CMSA](#). Additional information about condo manager education and exam requirements can be found in the Minister's [designation](#). Licensing will take effect on November 1, 2017.

This summary is focused on the following key areas:

1. Complaints, Insurance and Other Requirements

Identifies further obligations for licensees under the CMSA (i.e., condominium managers and condominium management providers):

- Procedures relating to complaints
- Insurance requirements
- Disclosures required by licensees
- Duties in relation to client records
- Duties in relation to supervision of licensees

2. Code of Ethics and Discipline and Appeals Committees

Specifies various ethical obligations for licensees. Also identifies the composition, appointment and procedures of the discipline committee and appeals committee which will be established to hear and determine if a licensee has failed to comply with the code of ethics.

Part 1: Complaints, Insurance and Other Requirements

Complaints

Under the CMSA, if the registrar receives a complaint about a licensee, the registrar can request information in relation to the complaint from any licensee.

Notice to Principal Condominium Manager

The proposed regulation would provide that if the registrar makes a written request for information from a condominium management provider or a condominium manager employed by a condominium management provider, the registrar would be required to provide a copy of the request to the principal condominium manager.

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Notice of Action Taken

In handling complaints, the CMSA will authorize the registrar to do any of the following, as appropriate:

- Attempt to mediate or resolve the complaint
- Give the licensee a warning
- Require the licensee to take further educational courses
- Refer the matter to the discipline committee
- Suspend, revoke or add conditions to a licence
- Refuse to renew a licence
- Take further action as is appropriate in accordance with the CMSA

If the registrar takes any action under the CMSA in regards to a complaint against a licensee, the proposed regulation would require the registrar to give written notice of the action to the licensee, the principal condominium manager of the licensee or the board of directors of an employer condominium corporation, as applicable.

Obstruction Prohibited

A licensee would be prohibited from obstructing, interfering with or hindering any person from making a complaint to the registrar about a licensee.

A licensee would be prohibited from obstructing, interfering with or hindering any person from providing information to the registrar, the director, a condominium corporation, the board of a condominium corporation or a condominium management provider relating to the conduct of a licensee or the potential contravention or failure by any person to comply with the CMSA or the regulations made under it.

Insurance

The proposed regulation would require every licensed condo management provider to maintain the following types of insurance:

1. **Errors and omissions insurance:** that includes coverage for every condominium manager that the provider employs, including those employed as an independent contractor.
2. **Fidelity insurance:** that includes protection against losses arising from dishonesty of condo managers, other employees, directors and officers of the provider.

Before entering into a contract for condominium management services with a client, a licensed condo management provider would be required to provide the client with certificates of insurance that include information about the types and amounts of insurance coverage, the insurer, the policy number and the effective dates of the insurance.

If the required insurance coverage is cancelled, terminated, or otherwise changed in a material way the provider must notify its client in writing within 30 days.

A licensed condo management provider must provide the registrar with any information about the provider's insurance coverage that the registrar requests.

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Disclosures Required by Licensees

Before entering into a contract for condo management services, the proposed regulation would require a licensee to disclose in writing the following information to a prospective client:

- **Needs assessment:** a description of the condo management services that would reasonably meet the needs of the client, based on the description of those needs that the client gives to the licensee.
- **Other services:** a description of other services that may be more appropriate than condo management services to meet the needs of the client, based on the description of those needs that the client gives to the licensee.
- **Services and costs:** a description of the services and associated costs that the licensee would provide to the client under the condo management contract.
- **Bundled services:** a statement about whether any services, discounts or other benefits provided by the licensee are dependent on the client continuing to purchase services from the licensee or from an interested person in respect of a licensee.
- **Material interest:** any material interest that the licensee, or an interested person in respect of the licensee, has in another business that is offering or could offer services to the client.
- **Financial benefit:** any direct or indirect financial benefit that the licensee, or an interested person in respect of the licensee, may receive from another person in connection with providing condo management services to the client.

Client Records

The proposed regulation requires a licensee who holds records on behalf of a client to:

- Ensure that the records are maintained securely, accurately, and with care and due regard for the client's obligations under section 55 of the Condominium Act, 1998.
- When requested by the client, make the records available for inspection by the client as soon as reasonably possible.
- When requested by the client, transfer to the client any records held by the licensee or copies of those records, as soon as reasonably possible.

Supervision

The proposed regulation would require licensed condo management providers to ensure an adequate level of supervision for limited licensees that the provider employs.

Part 2: Code of Ethics and Discipline and Appeals

Committees

The CMSA allows for the establishment of a code of ethics. The proposed code of ethics outlines various obligations for licensees that promote professionalism, reliability and quality of services.

Section 58 of the CMSA establishes a discipline committee and an appeals committee to hear and determine if a licensee has failed to comply with the proposed code of ethics.

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General Obligations of Licensees

Condo Managers:

A condo manager must not act, or fail to act, in a way that causes the condo management provider employing the manager to contravene the Code of Ethics.

Fairness, Honesty, Integrity:

A licensee must act with fairness, honesty and integrity when offering or providing condominium management services.

No Discrimination or Harassment, Duty to Accommodate:

A licensee must treat all persons equally, without discrimination, harassment or violence and provide reasonable accommodation for persons with disabilities when offering or providing condominium management services.

Conscientious and Competent Service:

A licensee must provide conscientious, courteous and responsive service and demonstrate reasonable knowledge, skill, judgment and competence when providing condominium management services.

Providing Opinions, etc.:

When providing condominium management services, a licensee must demonstrate reasonable knowledge, skill, judgment and competence in providing opinions, advice or information regarding the services. A licensee must not provide an opinion or advice to any person unless the licensee has the necessary education or experience to provide that opinion or advice.

Current Documents:

A licensee must ensure that forms and documents used by the licensee in providing condo management services are current.

Business Records:

A licensee must make and keep all records that are reasonably required to provide condo management services.

Financial Responsibility:

A licensee must be financially responsible when providing condominium management services.

No Misrepresentation of Licence:

A licensee must not make misrepresentations to any person about the type, class of, or conditions on the licensee's licence.

Error, Misrepresentation, Fraud, etc.:

A licensee must use their best efforts to prevent error, misrepresentation, fraud, or any other unethical practice when providing condo management services.

Unprofessional Conduct, etc.:

A licensee must not engage in any act or omission that could reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a licensee.

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Unreasonable Interference:

Except as permitted or required by law, a licensee must not unreasonably interfere with the use and enjoyment of the common elements, units, or assets of the client by a client; owner; occupier; invitee, agent or employee of an owner or occupier; or director, invitee, agent or employee of a client.

Protecting Client Interests

Engaging and Informing the Client:

A licensee must keep the client informed of all significant steps taken by the licensee in the course of providing condominium management services.

Best Interests:

A licensee must promote and protect the best interests of the licensee's clients.

Contract re Property or Client's Assets:

A licensee who has a contractual obligation to manage, maintain, repair or protect the property or assets of a client must be diligent in executing these obligations. A licensee must not exaggerate, misrepresent or conceal material facts to a client concerning any property or assets of the client.

Services from Others:

A licensee must advise a client to obtain services from another person, and must not discourage a client from seeking a particular kind of service if:

- the licensee is unable to provide those services with reasonable knowledge, skill, judgment and competence, or
- is not authorized by law to provide those services.

Fees & Compensation:

A licensee must not indicate to any person, either directly or indirectly, that remuneration or other costs are fixed or approved by the administrative authority, the registrar or any government authority.

Confidentiality:

A licensee must not disclose any confidential information to a third party without prior written consent of the person to whom the information relates, except as authorized or required by law.

Composition of Discipline and Appeals Committees

The discipline committee and the appeals committee should each have at least five members respectively, at least one of whom has never been a licensee or a shareholder, officer, director or employee of a licensee or former licensee.

Appointment of Committee Members

- A person may be appointed as a member of both the discipline committee and the appeals committee.
- A board member of the administrative authority must not be appointed as a member of either committee.

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- The board of the administrative authority must appoint a chair of both committees and may appoint vice-chairs of each committee.
- Each person appointed as a member of a committee or as a chair or vice-chair of a committee must take and sign an oath or affirmation before beginning his or her duties.
- An appointment as a committee member expires on either the date specified in the appointment, or, if no date is specified, on the day before the third anniversary of the appointment.
- If the term of office of a committee member expires before a hearing is complete or a decision is given, the term is deemed to continue only until the hearing is completed and a decision is rendered (except if the appointment was terminated for cause).
- The board of the administrative authority can terminate committee member appointments at any time for cause.

Discipline Committee Procedures

Limitation:

The registrar of the administrative authority must refer a complaint to the discipline committee within two-years of first becoming aware of the complaint.

Discipline Committee Panel:

When a matter is referred to the discipline committee, generally the chair of the committee must assign a panel of at least three members of the discipline committee to hear and determine the matter. At least two panel members must be licensees or officers or directors of a licensed condo management provider, and at least one panel member must never have been a licensee or a shareholder, officer, director or employee of a licensed, or formerly licensed, condominium management provider.

Parties:

The parties to a proceeding before the discipline committee are the licensee who is the subject of the proceeding, the administrative authority and any other person added as a party by the discipline committee.

Notice of Hearing:

The discipline committee must give the parties to a proceeding at least 45 days notice of a hearing by the committee.

Disclosure of Evidence:

If a party intends to tender evidence at a hearing, they must disclose it to every other party:

- 30 days before the hearing begins, for evidence tendered by an administrative authority
- 15 days before the hearing begins, for evidence tendered by any other party.

Disclosure from Closed Hearing:

If a hearing is closed to the public, the discipline committee can order that the evidence and submissions at the hearing are not to be disclosed to the public.

Notice of Decision to Complainant:

If a proceeding arises from a complaint by a person who is not a party to the hearing, the discipline committee must send that person a copy of the committee's final decision or order including any reasons, at the same time as the committee sends each party to the proceeding the same documentation as required by law.

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Notice of Appeal Rights:

When the discipline committee sends a copy of the final decision or order to a party to a proceeding, or to the party's counsel or agent, as required by law, it must also send a notice outlining the party's right to appeal to the appeals committee and the procedures applicable to an appeal.

Appeals Committee Procedures

Commencement of Appeals:

A party can commence an appeal within 30 days after the discipline committee sends notice, as required by law, of the order being appealed by delivering to the appeals committee:

- A notice of appeal (that sets out the parties to the appeal, the order being appealed, the grounds for the appeal and the relief being sought).
- The required filing fee set by the administrative authority.

The appellant must also deliver a copy of the notice of appeal to the other parties to the appeal and to the discipline committee within the above-noted 30-day period.

Appeals Committee Panels:

When a matter is appealed to the appeals committee, generally, the chair of the committee must assign a panel of at least three members of the appeals committee to hear and determine the appeal. At least two panel members must be licensees or officers or directors of a licensed condo management provider, and at least one panel member must never have been a licensee or a shareholder, officer, director or employee of a licensed, or formerly licensed, condominium management provider.

A person who was a member of the discipline committee panel for the order being appealed is not permitted to serve on the appeals committee panel.

Parties:

Parties to the appeal are the appellant, the other persons who were parties to the proceeding before the discipline committee and any other person added as a party by the appeals committee.

Generally, the rules applicable to the discipline committee about notice of hearing, disclosure of evidence and notice of decision also apply to the appeals committee, with necessary modifications.