



HEALTH PROFESSIONALS: HEALTHCARE RISK MANAGEMENT BULLETIN, VOLUME 5, No. 2 – UNDERSTANDING COLLEGE PROCEEDINGS

You're a responsible, conscientious, caring health professional. Why would you need to worry about a complaint to the College?

Think again.

Complaints to the College can happen to anyone; and you need to take them seriously.

THE IMPORTANCE OF EARLY ADVICE

If you think you may have done something that could result in a complaint to the College, you should seek assistance. Early advice from someone with experience and expertise can potentially avoid a complaint or at least provide you with a framework to understand the risks you are facing so that you can make informed decisions.

First Stage: The Inquiries, Complaints and Reports Committee (“ICRC”)

Once a complaint is received, the College has a mandate to investigate it and any other issues that arise in the course of its investigation. The scope of the investigation can expand beyond the initial complaint. The College's mandate is the protection of the public – not its members or registrants.

The College has the power to appoint an investigator, who can attend at your business premises unannounced to inspect your practice and to seize random patient files or specific items that they may be targeting. If that happens, you should request a copy of the Notice of Appointment of Investigator and the underlying complaint (if there is one). You should also immediately call your insurance broker or a lawyer experienced in this area of work for assistance, even while the investigator is still present.

Whether or not you view the complaint as serious, you will be asked to write a response. You may think that you have nothing to hide and therefore nothing to fear, but advice from experienced legal counsel can avoid or minimize the risk of an adverse finding that could permanently impact your career. Innocent but well-meaning gestures and even the tone of the response can provoke an unexpected and unfortunate reaction.

You should also be aware that the scope of “sexual abuse of a patient” and “fraud” is broader than some health professionals realize. Legal advice is highly recommended before providing any written response.

If the allegations raise issues of credibility (ie., your word vs the complainant's) relating to serious issues (e.g., insurance fraud or sexual abuse of a patient), there is a significant risk that the matter will be referred to Discipline *even if you deny the allegations completely.*



The decision at the level of the ICRC is made only based on the documentation gathered in the course of the investigation. Therefore, the ICRC is very reluctant to resolve any serious allegations if there are differing versions of events.

Second Stage: The Discipline Committee

Once referred to the Discipline Committee, there is no easy way out, even if you deny all of the allegations against you. Unless you are willing to enter into a compromised arrangement (that almost always requires an admission of professional misconduct and perhaps conduct that is “disgraceful, dishonourable, and unprofessional”), you need to be prepared to spend tens of thousands of dollars defending yourself at a formal discipline hearing.

Again, the College’s mandate is to protect the public. The College will not simply walk away from serious allegations without the member either acknowledging misconduct (ie., a “plea” agreement) or completing a formal hearing.

Any “plea” agreement often includes a period of suspension of the member’s license, a reprimand, and a requirement that the member pay a portion of the College’s investigation and prosecution costs to the College. The member’s admission of having committed an act of professional misconduct (and any other particulars admitted) remain a matter of public record and the allegations and decision of the Discipline Committee are published.

The Importance of Defence Coverage Insurance

If you have the misfortune of finding yourself the subject of a College complaint, your best defence is early legal advice and access to funds that you can use to defend vigorously your license and reputation. If referred to the Discipline Committee, you are facing significant risks to your livelihood as the College will be seeking suspension or even revocation of your license to practice. That is not the time to be depleting your savings or putting a second mortgage on your home to defend yourself.

Without defence funding, many members are forced simply to concede and admit to conduct or “unprofessional” labels that they otherwise would resist. Ensure your insurance program addresses the need for legal defense costs for regulatory proceedings.

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