



Hearings Handbook

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Purpose

This handbook is designed to help members of the public, complainants, and investigated regulated members understand the hearings process under the *Health Professions Act* (HPA). It outlines what to expect at each stage of the hearing process, who is involved, and the rights and responsibilities of participants.

Principles of Natural Justice

The College is guided by the principles of natural justice, which are based on the fundamental notion that every person is owed a duty of fairness. The key principles of natural justice include:

- The right to be heard
- The right to know the case against them
- The right to be judged impartially
- The right to understand the reasons for a decision.

By adhering to these principles, the College ensures that hearings under the *Health Professions Act* (HPA) are carried out with the utmost fairness and integrity, thereby maintaining the public's trust in the health profession.

Who Can File a Complaint?

Any member of the public, including patients, healthcare professionals, or other individuals, can file a written, signed complaint against a current or former member of the College. The party that submits a complaint is called the complainant.

The Complaints Director may also initiate a complaint if they believe there are reasonable grounds to suspect unprofessional conduct.

How Complaints Are Handled

Once a complaint is received, the Complaints Director assesses it and may:

- Attempt **informal resolution**
- Initiate a **formal investigation**
- Appoint an **independent expert** to review the matter
- Refer the case to a **disciplinary hearing**
- **Dismiss** the complaint with reasons provided in writing

Refer to **appendix A** for a flowchart of the complaint process.

What Happens If a Complaint Is Dismissed?

If a complaint is dismissed the matter will not proceed to a hearing. The complainant will receive written notice explaining the reasons for the dismissal.

The complainant has the right to request a review of the dismissal. This review is conducted by the Complaint Review Committee, which can either uphold the dismissal or refer the matter for further investigation or a hearing.

Referring a Complaint to a Hearing

Once a complaint is referred to a hearing, the Hearings Director begins the scheduling process. This process involves several steps to ensure that the hearing is conducted fairly, efficiently, and within the legislated timelines:

1. **Identifying Availability:** The Hearings Director consults with the Complaints Director, legal counsel, the investigated member (and their legal representative, if applicable), and the appointed Hearing Tribunal members to identify mutually available dates.
2. **Selecting the Hearing Date:** Hearings must be scheduled to take place within 90 days of the referral. Once a suitable date is agreed upon, it is confirmed in writing with all parties.
3. **Appointing the Tribunal:** The Hearings Director appoints a Hearing Tribunal composed of two regulated members and two public members.
4. **Issuing the Notice:** A formal Notice to Attend and Produce is prepared and sent to the investigated member by registered mail or another secure verifiable method, at least 30 days before the hearing. This notice outlines:
 - The allegations to be addressed
 - The date, time, and location of the hearing
 - Any requirements for attendance or document production
5. **Notifying Other Participants:** The Hearings Director also ensures that the complainant, legal counsel, Tribunal members, witnesses, and any independent legal counsel are notified of the hearing details.
6. **Preparing Hearing Materials:** Relevant materials, including case documents and schedules, are prepared and distributed to the Tribunal and parties in advance of the hearing.

Hearing Participants

Several people may attend or participate in the process leading up to a hearing, including:

- **Hearings Director:** Manages hearing logistics and communications
- **Complaints Director:** Leads the investigation and presents the case
- **Legal Counsel:** Represents the College during the hearing
- **Complainant:** May be called as a witness but does not present the case
- **Investigated Member:** May present evidence, call witnesses, and be represented by legal counsel
- **Hearing Tribunal:** A neutral panel of regulated and public members who hear the case and make decisions
- **Independent Legal Counsel:** Provides legal guidance to the Tribunal
- **Witnesses:** Provide relevant evidence and testimony
- **Court Reporter:** Records the proceedings
- **Public Observers:** May attend unless the hearing is closed under section 78 of the HPA

Types of Hearings

There are two types of hearings under the *Health Professions Act* (HPA):

Contested Hearings

In a contested hearing, the investigated member **disputes** some or all of the allegations. The College, through the Complaints Director or legal counsel, presents its case and calls witnesses.

The investigated member can also call their own witnesses, submit evidence, and testify under oath. Once all evidence is presented, both sides summarize their positions and argue whether the conduct occurred and if it constitutes unprofessional conduct.

The Hearing Tribunal then makes a decision. If unprofessional conduct is found, both sides may propose appropriate penalties and/or sanctions.

Consent Hearings

In a consent hearing, the investigated member **accepts** some or all of the alleged conduct. Legal counsel for the Complaints Director prepares an agreement, which may include an Agreed Statement of Facts, an Admission of Unprofessional Conduct, and a Joint Submission on Sanctions

This agreement is presented to the Hearing Tribunal, which will review the information, assess the proposed outcome, and decide whether to accept it. The Tribunal then issues its decision and written reasons.

Hearing Process

The hearing process moves through the following stages:



Hearing Opens

- The Hearing Tribunal Chair calls the hearing to order, and the court reporter begins transcribing.
- All parties are introduced, and the Chair explains the hearing procedures.
- Preliminary issues (e.g., adjournments, bias, or public access) are addressed before evidence is heard.

Allegations, Admissions, and Denials

- The Complaints Director may present an Agreed Statement of Facts.
- The investigated member may respond to or comment on the statement.

Opening Statements

- The Complaints Director and the investigated member (or their legal counsel) have the opportunity to make opening statements outlining their cases and what they intend to prove during the hearing.

Evidence is Presented

- The Complaints Director presents evidence and calls witnesses.
- The investigated member (or their counsel) cross-examines witnesses.
- Re-examination and questions from the Hearing Tribunal follow.

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- The same process is repeated for witnesses called by the investigated member.
- The Complaints Director may call rebuttal witnesses if new issues arise.

Closing Submissions

- Each party summarizes their case and presents legal arguments.
- The Hearing Tribunal may ask questions or request further submissions if needed.

Deliberation and Decision

- The Hearing Tribunal deliberates privately and issues a written decision.
- If unprofessional conduct is found, both parties may make submissions on appropriate penalties and/or sanctions.

Decisions

Following a hearing, the Hearing Tribunal prepares a written decision that details its findings, the reasons for those findings, and any sanctions and/or penalties imposed if the investigated member is found to have engaged in unprofessional conduct.

- **Sanctions** are corrective actions intended to address the conduct and protect the public (e.g., mandatory education, supervision, or practice restrictions).
- **Penalties** are disciplinary consequences, which may include fines, suspension, or cancellation of the member's registration.

The written decision is sent to all involved parties using a secure and verifiable delivery method, such as registered mail, to ensure confirmed receipt.

Criminal Offense

If the Hearing Tribunal has grounds to believe the investigated member committed a criminal offence, a copy of the written decision is forwarded to the Minister of Justice.

Record Keeping

A copy of the decision is retained in the College's official records. This ensures that there is a permanent record of the decision and the proceedings for future reference.

Publication

Decisions are published on the College's website after the appeal process is concluded or the appeal period has expired.

Appeals

An investigated member or the Complaints Director may file a Notice of Appeal within 30 days after receiving the Hearing Tribunal's decision. The Notice of Appeal must clearly state the grounds for the appeal.

An appeal can pertain to any part or the entirety of a decision, such as one or more findings of guilt, penalty orders, or any combination thereof. For instance, a member might appeal all aspects of a Hearing Tribunal's decision—encompassing every finding of guilt and every sanction—or they might choose to appeal specific elements, such as the fines, costs, or a particular order.

COMPLAINT PROCESS- Appendix A

Complaint received ➤

Complaints Director (CD)

Within 30 days responds to complainant and notifies regulated member

Informal resolution

CD works to resolve the complaint without an investigation

Direct Resolution

The complaint is resolved between the complainant and the regulated member

Resolve with Consent

The complainant consents to the CD working with the regulated member to make necessary practice changes

Referred back to CD

If informal resolution is unsuccessful

Investigation

An investigator collects information and prepares a report for the CD

CD resolves with consent

Refer to Hearings Director

Dismiss the complaint

Hearing

Conducted by a Hearing Tribunal

Tribunal finds evidence of unprofessional conduct

Tribunal finds insufficient evidence of unprofessional conduct

Decision (Fines, costs, sanctions)

30 days for regulated member or CD to appeal decision

Dismiss

Due to insufficient or no evidence of unprofessional conduct, or is trivial or vexatious

Request a review

The Complainant may apply for review of dismissal decision

Refer to Hearings Director

Complaint Review Committee

Uphold dismissal

Refer to a hearing

Refer back to CD

Complaint file closed