

COLLEGE OF DIETITIANS OF BRITISH COLUMBIA

The Complaint Resolution Process

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INTRODUCTION

This document describes the complaint resolution process of the College of Dietitians of British Columbia (CDBC). The document explains, in simple terms, how the CDBC manages and resolves complaints. It is an interpretation of pertinent sections of the *Health Professions Act* (the Act) and the CDBC bylaws and is not a substitute for the legal references included after section 8.

This document has been approved by the CDBC Inquiry Committee and Board of Directors.

The mandate of the CDBC Inquiry Committee is to investigate and, in accordance with the Act, take action on matters relating to dietetic practice in BC. Any actions taken are based on written complaints or information that is brought to the attention of the Inquiry Committee.

The Inquiry Committee consists of at least five members, all who are appointed by the Board. Committee members include two public representatives, one a Board member appointed by the government, one elected Registered Dietitian Board member and at least two other Registered Dietitians. All members of the Inquiry Committee and CDBC staff have signed confidentiality agreements and understand the confidential nature of all discussions, reports and documents relating to the Committee's mandate.

In addition to being an investigator, the role of the Registrar is to carry out the directions of the Inquiry Committee under the Act, Dietitians Regulation and CDBC bylaws. The Registrar:

- coordinates the complaint process,
- communicates with the complainant (the person complaining), registrant and the investigators,
- assesses the complaint, and
- recommends investigative actions to the Committee.

The Inquiry Committee makes all decisions regarding the outcome of the complaint.

Official investigation documents, including all reports, correspondence, records or items, are retained in confidence by the CDBC for a period of six years, the current limitation period under the CDBC bylaws. Access to these documents by individuals not involved in an inquiry is based on guidelines established under the *Freedom of Information and Protection of Privacy Act*. Protection of the public is the primary value upheld throughout the process.

All dietitians registered with the CDBC are responsible for practicing in accordance with the Act, Dietitians Regulation and the CDBC bylaws, which includes the Standards of Practice and Code of Ethics.

A diagram representing the complaint process is included at the end of the document.

1. COMPLAINTS

1.1 **Who may make a complaint?**

Complaints, concerns or questions about a Registered Dietitian's practice may be made to the CDBC by anyone (e.g. clients, colleagues or any individual within the community). Complaints must be in writing and signed. In addition, the CDBC Inquiry Committee may initiate an investigation on its own (see section 2.3 and 3.4 below). The process for managing complaints is outlined in the Act and is identical for all complaints and for all health professions legislated under the *Act*.

1.2 **How a complaint is made:**

All written complaints are directed to the Registrar of the CDBC. The Registrar requires the name and contact information of the complainant, the name of the Registered Dietitian the person is complaining about (the respondent), where the dietitian works, and relevant details about the complaint.

1.3 **Types of complaints:**

A complaint against a registrant may be lodged if a complainant believes, in good faith, that the Registered Dietitian

- has contravened the Act, Dietitians Regulation or CDBC bylaws;
- has failed to comply with a standard, limit or condition imposed under the Act, regulations or bylaws;
- has acted in a manner that constitutes professional misconduct or unprofessional conduct, including sexual misconduct;
- is not competent to practice as a Registered Dietitian;
- is suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs the registrant's fitness to practice as a dietitian;
- has been conviction for an indictable offense that is relevant to the Registered Dietitian's competence or fitness to practice; or
- fails to authorize a criminal record check under the *Criminal Record Review Act*.

1.4 **Verbal complaints:**

A complaint may be discussed verbally with the Registrar. Under the Act, a verbal complaint cannot initiate the complaint process. A complaint must be received in writing. (See section 3.4 for exceptions).

2. INFORMAL RESOLUTION OF VERBAL COMPLAINT

2.1 **Resolution of a verbal complaint:**

When a complaint is received verbally (over the telephone or in-person), the Registrar assesses the matter and resolves it if possible. (e.g. a problem of miscommunication between the client and Registered Dietitian or an employer's question about the Registered Dietitian's registration status).

2.2 **Notification of the registrant of successful resolution:**

The Registrar may choose, with discretion, to notify the Registered Dietitian that a verbal complaint was received and resolved. If appropriate, the Registrar makes suggestions to the registrant as to how to prevent repeat situations from occurring.

2.3 **An unresolved verbal concern:**

When a verbal complaint cannot be resolved, the Registrar outlines possible options to the complainant. This may include discussing the issue directly with the

Registered Dietitian, submitting a written complaint to the Registrar or leaving the matter unresolved.

If the verbal complaint relates to a serious public safety matter, the Registrar discusses the matter with the Inquiry Committee and the Committee may decide to investigate on its own initiative (an “own motion” investigation).

3. INITIATION OF THE COMPLAINT PROCESS - A WRITTEN COMPLAINT

3.1 Clarification of a written complaint:

In order to assess the written complaint, the Registrar may need to contact the complainant for clarification of facts. When a complaint is outside the jurisdiction or authority of the CDBC, the Registrar directs the complainant to the appropriate agency.

3.2 Complaints forwarded to the Inquiry Committee:

As soon as possible after receiving a written complaint and clarifying the facts, the Registrar forwards a copy of the letter of complaint to members of the Inquiry Committee with an assessment of the complaint and recommendations for resolution. Past complaints against the registrant may be considered.

Names are included so that members of the Committee can determine if they have a conflict of interest (real or perceived) with anyone associated with the complaint (e.g. a Committee member has a financial or material interest in the outcome of the complaint or a significant past or present association with the complainant or the registrant). If the Inquiry Committee determines that the member has a conflict of interest, the member will withdraw from all discussion and decisions on the case

3.3 Appointment of investigators:

The Inquiry Committee generally appoints two investigators to each case. CDBC investigators have completed the National Certified Investigator/Investigator Training program sponsored by the Council on Licensure, Enforcement and Regulation and have participated in a thorough orientation to the provincially legislated complaint process. The role of the investigator is to prepare an investigation plan, carry out the investigation, forward an Investigation Report to the Inquiry Committee and be available to the Committee to answer questions about the inspection process and findings.

3.4 Investigation without a written complaint:

Investigation of a Registered Dietitian and the appointment of investigators may be initiated by the Registrar or the Inquiry Committee “on its own motion” on the basis of information received from sources other than a written complaint (e.g. the Inquiry Committee members may have reasonable evidence to believe that a registrant is practicing in contravention of the Act, Regulations, or Bylaws). In this situation, an own motion complaint is initiated by the Registrar and forwarded to the Inquiry Committee for investigation by appointed investigators.

3.5 Extraordinary action to protect the public

If, during an investigation, the Inquiry Committee considers it necessary for public safety it may impose limits or conditions on the registrant’s practice or suspend the registrant’s registration. Strict guidelines must be followed. Once the action is no longer needed, the limits, conditions or suspension must be cancelled and the registrant notified in writing.

4. THE INVESTIGATION PROCESS

4.1 Notification of the registrant:

The Registrar notifies the Registered Dietitian by telephone and in writing that the CDBC has received a complaint about their practice. The registrant is sent a copy of the letter of complaint made by the complainant or initiated by the Inquiry Committee and is asked to provide in writing, within 30 days, any information that he or she wishes the Committee to consider in order to resolve the complaint. This information is forwarded to the investigators and is copied to the Inquiry Committee.

4.2 Interviews

While investigating the complaint, the investigators will telephone, correspond with or meet with the registrant, complainant and any others directly involved with the complaint. The investigator is a neutral and objective fact finder.

Those being interviewed by the investigators may choose to be accompanied by a support person. The person is for moral support only and cannot contribute to the discussion.

If the investigators wish to audiotape an interview, consent will be obtained from all parties present. At the beginning of the recording, the investigator will name the people in attendance, specify the date, time, location and case number; and record declaration(s) that consent to recording has been obtained. Investigators will take notes to supplement the recorded interview. Tapes are not transcribed. They are used to confirm and supplement the investigators' notes. The interview audiotape is not available to the parties.

A summary of the interview is mailed to the interviewee with a request to confirm or revise the record for accuracy, and sign and date the interview summary.

4.3 Workplace inspection:

Investigators may inspect the registrant's workplace if further facts or information are needed in order to resolve the complaint. Under the Act, the investigators may, without a court order, visit the workplace during work hours and inspect or observe the provision of services (with the client's consent), the equipment, materials, and records. The investigators have the lawful right to inspect the workplace and the registrant is ethically obliged to cooperate...

If necessary, the investigators may interview or question the registrant's colleagues or others in the workplace setting in order to gather additional relevant facts or information about the Registered Dietitian's practice.

4.4 Inspection by a court order:

If an inspection is denied or obstructed or if an inspector needs to visit a place other than a Registered Dietitian's place of practice to examine or seize evidence, the investigators may apply to the Supreme Court for a legal order.

The court order names the investigators, specifies the premises to be searched and as well, may include specific conditions for the search. The order also describes the items under search (although other items may be removed if the investigators believe they provide evidence relevant to the complaint). The investigators must give the registrant a receipt for any items that are removed. Under the Act, the investigators' search and seizure of evidence cannot be obstructed.

Any evidence that is removed and held by the Inquiry Committee as the result of a court order must be reported as soon as possible to the Supreme Court judge who issued the court order. The judge rules whether the evidence is to be returned to the Registered Dietitian or workplace, or retained by the Inquiry Committee.

4.5 *Holding of evidence:*

The registrant or the owner of evidence seized during an investigation may inspect the items at any time and may obtain one copy of any record at the College's expense. All evidence must be returned within three months unless the registrant or owner agree to the evidence being held longer, or unless a judge of the Supreme Court orders the evidence to be held for a longer specified time period.

4.6 *Investigation Report*

Once the investigators have gathered all the case facts and evidence, they prepare an Investigation Report for the Inquiry Committee. The report is written in a concise, objective and factual manner and relates, where possible, the investigation findings to the complaint allegations. Investigators do not include recommendations for resolution of the complaint.

5. *ACTION RESULTING FROM AN INVESTIGATION*

5.1 *Inquiry Committee deliberations and options:*

Members of the Inquiry Committee meet to review the Investigation Report and the information provided by the registrant. After deliberating, the Committee may, in accordance with the Act, make one or more of the following four decisions (see sections 5.2 to 5.5 for further detail):

- (a) take no further action and dismiss the matter;
- (b) take any action it considers appropriate to resolve the matter between the complainant and the registrant;
- (c) request that the registrant agrees to a specific remedial action or reprimand (a consent agreement); or
- (d) direct the Registrar to issue a citation for a hearing by the Discipline Committee.

The registrant may be required to pay specified costs to the College if the complaint is resolved under sections (b), (c) or (d).

5.2 *Take no further action and dismiss the matter:*

No further action will be taken if the Inquiry Committee determines that the complaint is trivial, frivolous, vexatious, made in bad faith, or that the conduct or competence of the registrant is satisfactory.

5.3 *Resolution of the complaint or issue:*

The Committee may take any action it considers appropriate to resolve the matter between the complainant and the registrant. This option is not often used as most complaints relate to matters of professionalism, competence or an impairment of a registrant's ability to practice dietetics due to a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs. These are generally serious matters, not suitable to mediation or compromise.

5.4 Consent agreement:

The Inquiry Committee may negotiate a consent agreement with the registrant. This is a commonly used option where the registrant agrees to do one or more of the following:

- not repeat the conduct to which the complaint relates;
- take educational courses specified by the Committee;
- accept a letter of reprimand; or
- agree to any other action specified by the Committee (such as a period of mentored practice).

Consent agreements are outlined in detail for the registrant as well as standards to be met, timelines, how compliance will be monitored, the length of time the agreement is binding on the registrant, the terms for public disclosure, and consequences of non-compliance. The registrant is asked to sign a written acceptance of the consent agreement conditions.

The Registrar monitors the registrant's compliance with the consent agreement and reports regularly to the Inquiry Committee.

If a registrant does not comply with the agreed upon consent agreement, the Inquiry Committee may direct the Registrar to issue a citation for a hearing by the Discipline Committee.

5.5 Citation for a disciplinary hearing:

The Inquiry Committee may also direct the Registrar to issue a citation for a hearing by the Discipline Committee if the complaint is of a very serious nature and the registrant and the Inquiry Committee cannot negotiate a consent agreement.

The purpose of a disciplinary hearing is to receive evidence about the conduct in question, decide if the allegations against the Registered Dietitian are true, and determine what actions need to be taken for public protection. Hearings conducted by the College's Discipline Committee are similar to court proceedings and are managed by the College's legal counsel. The registrant usually retains legal counsel as well. Discipline hearings are open to the public.

5.6 Notification of registrant and complainant:

Both the complainant and respondent are notified in writing of the outcome of the Inquiry Committee's investigation, including the reasons for the decision. If the case is dismissed or resolved through a consent agreement or any other appropriate action (sections 5.2, 5.3 and 5.4 above), the Inquiry Committee must write to the complainant within 30 days of the decision, enclose a summary of the agreement or undertaking and advise the complainant of the right to apply for a review of the decision by the Health Professions Review Board (see section 6 below).

5.7 Report to the Board:

The outcome of the Inquiry Committee's investigation, and its reasons for any action or decisions made, are reported to the Board in writing. The report removes all identifiers and is presented in a gender neutral manner. The same Case Outcome Report is circulated to College registrants for educational purposes. Additionally, it is posted on the College website for reference by registrants, the public, and any other interested party.

5.8 Public notification

When a complaint is of a serious matter and results in the registrant agreeing with an action or complying with a negotiated consent agreement, the matter must be reported to the public on the College's website. The registrant's name is included as well as the action taken and the reasons.

6. THE HEALTH PROFESSIONS REVIEW BOARD (HPRB)

6.1 Duties and powers of the HPRB (www.hprb.gov.bc.ca)

The HPRB was set up by the provincial government in 2008. Its duties in relation to the inquiry process are to:

- review the inability of the Inquiry Committee to resolve a complaint or complete an investigation within set timelines, and
- review, on written request by a complainant (within a set timeline of the receipt of the Inquiry Committee's decision), a case outcome resulting in the complaint being dismissed or a consent agreement signed (see sections 5.2, 5.3, and 5.4 above).

6.2 Application for a review by the HPRB

A complainant requesting a review by the HPRB must complete the HPRB's Application for Review Form, identify the decision in question and include the complainant's reason for requesting the review.

6.3 Delayed investigation

The HPRB has established timelines for complaint resolution. (refer to www.hprb.gov.bc.ca for details). If the final timeline for complaint resolution is not met, the investigation is suspended pending further direction from the HPRB. In these situations, the HPRB may send the matter back to the Inquiry Committee with directions to continue the process, complete the investigation and resolve the complaint within a specified time, or the Board may decide to take over the investigation and resolve the matter itself. In this occurs the Inquiry Committee is relieved of all authority over the matter.

6.4 Review of the Inquiry Committee's decision

A complainant may make a request to the HPRB to consider the thoroughness or adequacy of the investigation of the complaint and if the decision of the Inquiry Committee is reasonable. The HPRB reviews all written documents and records of the investigation (including any additional evidence) in order to ensure that it has all the facts.

The HPRB may confirm the decision made by the Inquiry Committee, change the Committee's decision, or send the matter back to the Committee for reconsideration with directions

6.5 Notification of results:

The HPRB must deliver a written copy of its decision to all parties of the review within a specific time limit. The decisions of the Board are final.

7. REFERRALS AND PUBLICATION

7.1 Referral of complaints to the police:

When a complaint against a registrant is of a criminal or civil nature, such as fraud or a sexual offence, the Inquiry Committee will refer the matter to the appropriate police agency and support that agency's investigation through an exchange of

information. The Inquiry Committee may continue to investigate the complaint, with or without the complainant's support. If the Inquiry Committee ceases their investigation pending the civil or criminal investigation, the Registrar will notify the complainant. The complainant will also be notified if and when the investigation resumes.

Decisions of the Inquiry Committee will be in addition to any charges laid by the police.

7.2 Notification of other professional groups:

If a complaint against a registrant has implications for a registrant of another professional governing body, the Registrar (if authorized by the complainant) transfers applicable information to that governing body. This could occur when there is joint responsibility for the action that caused the complaint to be lodged or when the registrant's consent agreement in some way affects a professional colleague. Notification occurs in writing and in confidence.

7.3 Publication of information and decisions regarding inquiry matters:

Information on complaints in progress are not published until the matter is fully resolved and the time period has expired for the complainant to request a review of the Inquiry Committee's decision.

For quality assurance and registrant education purposes, Complaint Outcome Reports are published by the College and may be relayed to others in College presentations. Names are always removed and the reports are written in a gender neutral manner.

8. RECORDS MANAGEMENT - FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

8.1 Retention of decision affecting a Registered Dietitian

A decision of the Inquiry Committee that results in remedial action by a Registered Dietitian or a Discipline hearing (see sections 5.3, 5.4 and 5.5) must be kept in the registrant's file for six years.

8.2 Access to files:

Inquiry matter files are kept in a secure place, accessible only to designated CDBC staff members.

8.3 Retention of investigation documents:

Investigation documents and files are destroyed after six years in accordance with the CDBC bylaws.

8.4 Resignation and reinstatement documents:

Files are permanently retained if a registrant resigns from the CDBC register in relation to an inquiry investigation or disciplinary hearing.

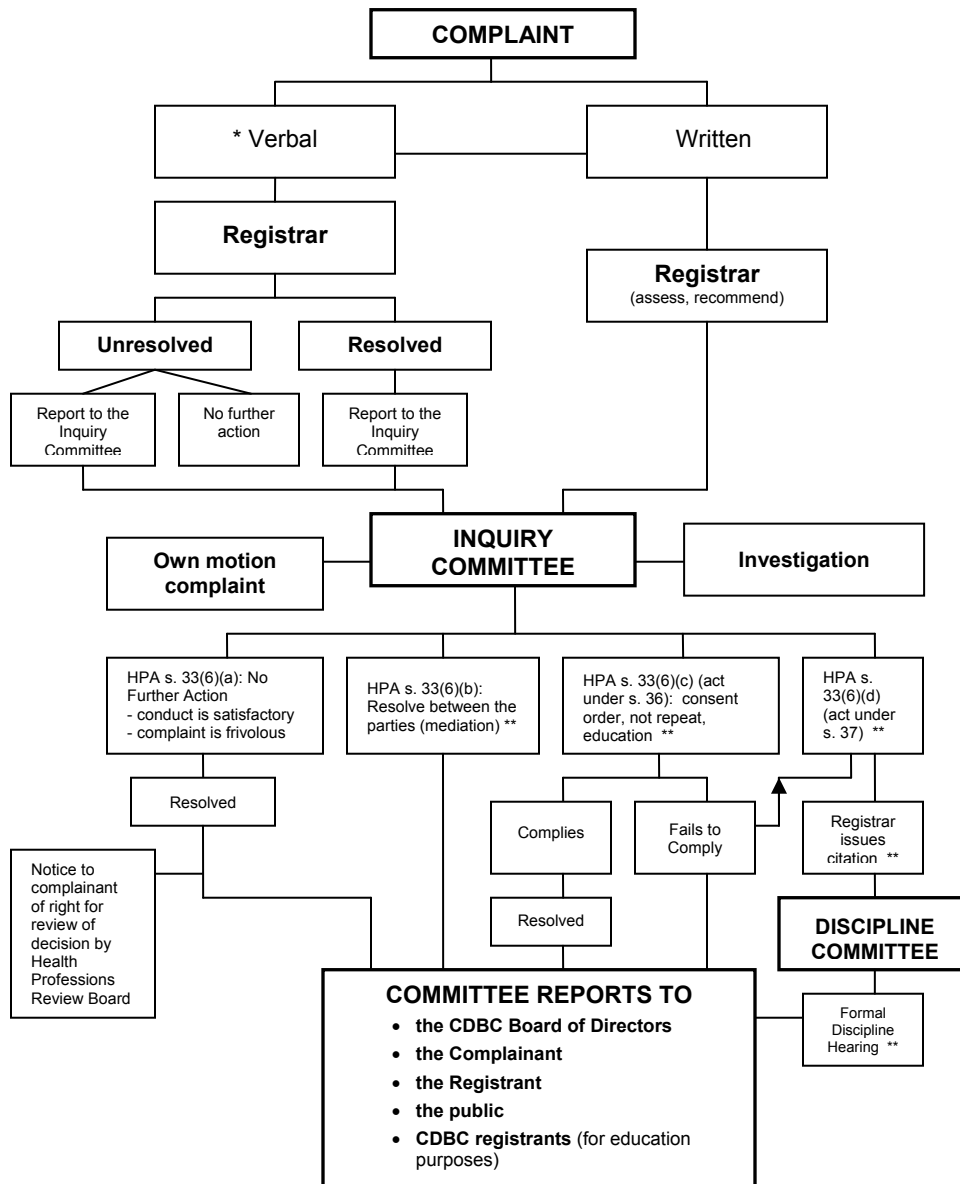
If the registrant applies for reinstatement, the registrant's file is expanded to include the registrant's reinstatement application, the reinstatement decision and a copy of the letter notifying the registrant of the decision.

LEGAL REFERENCES

- *Health Professions Act* (2002, 2008 amendments)
- CDBC bylaws (2003): sections 55 to 58, 62 to 65 and 75.

Appendix I

COMPLAINT RESOLUTION PROCESS FLOW-CHART



* A complaint must be in writing to proceed to the Inquiry Committee.
** Costs may be awarded to the College against the registrant.

Originally adapted from the College of Dental Hygienists of British Columbia, with thanks.