How To Make A Complaint

College of Homeopaths of Ontario

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The College's complaints process protects the public and improves homeopathic practice. The complaints process presents homeopaths with the chance to demonstrate accountability for their practice and provides members of the public with an opportunity to work with the College in the resolution of complaints.

Introduction

The College of Homeopaths of Ontario (the College or CHO) is the regulatory body for the homeopathic profession in Ontario. Its mandate is to regulate the profession in the public interest. Despite the word 'college', it is not an educational institution. Rather, the College registers individuals who are qualified to practice homeopathy in Ontario and resolves complaints about the actions of registered members and the care they provide.

The College exists to protect the public's right to quality homeopathic services. One of the ways the College does this is by regulating homeopaths and publishing professional practice standards for homeopaths. The standards outline what homeopaths are accountable for when providing care, and promote safe, ethical and effective care for the public. The vast majority of homeopaths provide the public with that meet the College's standards.

As a self-regulating health college operating under the Regulated Health Professions Act, 1991 (RHPA), the CHO is required to have a formal complaints process in place. This process is established through legislation and is the same for all health regulatory colleges in the province of Ontario. It gives any member of the public, employers, colleagues or other health care professionals the right to have his/her complaint about a homeopath's behaviour, conduct or practice investigated by the College's Inquiries, Complaints and Reports Committee (ICRC). Each step of the process is designed to ensure fairness to both the person who makes the complaint (the "complainant") and the College registrant (the homeopath) who is the subject of the complaint.

Making a Complaint

Making a complaint is a serious matter. If you wish to register a complaint, it is important to follow these steps:

1. Make a record of your complaint by letting the College know of your complaint by letter, on audio or videotape, on computer disk or by any other recorded format. It is not sufficient to make your complaint by phone.
2. Be sure to identify the full name of the homeopath your complaint is about.
3. Describe in detail the incident you are complaining about.
4. Provide the date, time and place (e.g. clinic, email, etc.) that related to the complaint you are making.
5. If you are sending a written document, be sure to sign it.
6. In whatever form you make the complaint, be sure to include your full name, address and telephone number.
7. Keep a copy of everything you have sent to the College.
8. Mail or deliver your complaint to the College.

Once information is received, the College reviews it carefully to confirm whether the information constitutes a complaint. (The College cannot respond to anonymous complaints.) When assessing information, the College considers such issues as public protection, fairness to all parties involved, and efficiency.

Once a complaint is received

Once a complaint is filed with the College the complainant receives an acknowledgement in writing. This will also confirm the commencement of the complaints process, for the purposes of complying with the time limits set out under the Regulated Health Professions Procedural Code ("the Code" – Schedule 2 of RHPA).

Within 14 days of the College receiving the complaint, the homeopath receives a copy of the complaint with a request for a written reply within 30 days. The homeopath's response is forwarded to the complainant who will then have an opportunity to make further written comment. A panel of the Inquiries, Complaints and Reports Committee (made up of members of the College's Council including public appointees and registrants elected by the membership of the College) convenes to review the complaint.

Is there a time limit to filing a complaint?

There is no time limit, but the College recommends that concerns or complaints be made as soon as possible after the event. The earlier a complaint is received, the fewer problems are encountered in any investigation. For example, it is more likely that relevant documents still exist, witnesses can be more easily located, memories have not faded, and evidence is not missing.

Investigating a Complaint

At its discretion, the Inquiries, Complaints and Reports Committee (ICRC) may ask the Registrar to appoint an investigator to assist with the investigation into the complaint.

If an investigator is appointed to the case, the investigator will gather relevant information about your complaint. This may include gaining access to your health records, obtaining administrative records from the homeopath and interviewing witnesses who have first-hand knowledge about your complaint. The homeopath will also be invited to present information relevant to the issues raised in your complaint.

After the Investigation

Once the investigation is complete, a report is prepared and submitted to a Panel of the ICRC. The Panel decides whether the information gathered during the investigation supports the claims made in the complaint.

Possible outcomes:

- If the information does support your complaint, the ICRC will consider the seriousness of the issues raised in your complaint and the homeopath's history with the College to decide if remedial action is required to protect the public or meet the standards. (See Alternate Dispute Resolution Section.)
- The Panel may also issue a letter of concern or caution to the homeopath.
- The committee may take no action if the information does not support your complaint. The ICRC will provide you with the reasons for their decision.
- A small percentage of complaints (on average, about five percent of investigations) involve very serious matters and are referred to the Discipline Committee.

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It is important to remember the Panel is only responsible for determining whether the homeopath's services were professionally and competently rendered. The ICRC Panel has no authority to assess injury, demand refunds or an apology from the homeopath, or to award damages to the complainant.

The Panel is required to make a decision within 150 days of receiving the complaint. If a decision is not reached within that time, the complainant and the homeopath will be contacted by the College. Unlike the results of a disciplinary hearing, which become a matter of public record, information relating to the investigation and resolution of complaints is held in the strictest of confidence. When the ICRC Panel finds that there is a significant risk of harm to the public from the registrant behaviour the Panel's decisions and reasons may become a matter of public record. Both the complainant and the homeopath receive a written copy of the decision and the reasons behind the decision. In some cases the decision will be posted on the Public Register of homeopaths. Please see the College Bylaws for more information on the Public Register.

The Decision

In accordance *Regulated Health Professions Act, 1991*, the Inquiries, Complaints and Reports Committee Panel may do one or more of the following in response to a complaint:

- Refer the registrant to the Discipline Committee for action if there are sufficient grounds for a charge of professional misconduct or incompetence or both;
- Refer the registrant to another panel of the ICRC for further action if there is sufficient evidence to suggest physical or mental incapacity;
- Require the registrant to appear before a panel of the ICRC to be cautioned;
- Take other appropriate action such as requiring the registrant to undergo continuing education or remediation; or
- Take no further action.

The Panel CANNOT: Continued from **Page 5**

1. Provide homeopathic diagnoses, referrals, treatment recommendations, or direct a patient's care.
2. Compel a homeopath to apologize (although once a matter is brought to their attention, some do).

The College does not have the authority to award financial compensation.

Can information gathered by the College be used in Court?

No. In accordance with Section 36(3) of the *Regulated Health Professions Act*, no report or decision of a proceeding is admissible in a civil proceeding.

However there are specific circumstances governing disclosure

> "The legislation governing regulators usually imposes confidentiality obligations with respect to information received in the course of regulating a profession. For example, the *Regulated Health Professions Act* is umbrella legislation that regulates a number of health professions in Ontario. It says "every person employed, retained or appointed for the purposes of the administration of this Act . . . every member of a Council or committee of a College shall keep confidential all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person. ….. " [1]

However, the act has certain exceptions permitting a health regulator to release confidential information:

- To a police officer to aid an investigation in a law-enforcement proceeding or from which a law-enforcement proceeding would likely result.
- If there are reasonable grounds to believe the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group.
- With the written consent of the person to whom the information relates."

1 Speakers Corner: Should regulators report suspected crimes to police? (2014, December 01). Retrieved from www.lawtimesnews.com/201412014350/commentary

Appealing the Decision

Either party (the complainant or the homeopath) has the right to appeal the decision of the ICRC within 30 days unless the decision of the ICRC is to refer the matter to the Discipline Committee or a referral for incapacity hearing.

The review process is handled by the Health Professions Appeal and Review Board (HPARB), which is composed of members of the public appointed by the Lieutenant Governor in Council on the Minister of Health's recommendation. HPARB is an independent third-party and an agency of the Government of Ontario. More information about the HPARB process is available at www.hparb.on.ca.

Alternate Dispute Resolution (ADR)

The purpose of the Alternative Dispute (ADR) Program is to facilitate the timely and fair resolution of certain complaints. As with all College programs, the primary purpose in resolving complaints through ADR is in accordance with the principle of protection of the public interest. Where appropriate, and with the consent of the complainant and the registrant, an ADR meeting or discussion may take place to consider the following:

1. The possibility of settling the issues;
2. The identification and simplification of the issues; and/or
3. Any other matter that may assist in the resolution of the issues in a just and expeditious fashion and consistent with the *Regulated Health Professions Act, 1991*.

Subject to these rules only, or on consent of the parties, the ADR meeting is confidential and is held on a "without prejudice" basis. The College, the registrant, and the complainant shall not disclose information obtained during the ADR process, in any other forum. This includes disclosure before any ICRC panel, the Health Professions Appeal and Review Board, the Discipline Committee, and any process of the civil or criminal courts.

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By choosing this option, you are helping promote excellence in homeopathic practice by providing the homeopath with an opportunity for learning and self-reflection. (Most complaints about homeopathic practice and conduct are suitable for resolution through this process.) This means that the complainant must accept the resolution agreement as the full and final resolution of the complaint, while the homeopath agrees that she or he will fulfil the terms of the resolution agreement. Everyone participating in the process must concur with the final agreement. All resolution agreements must be approved by the ICRC Panel hearing the complaint.

> *Note: Very serious matters, such as complaints concerning physical or sexual abuse, are not suitable for the resolution process. In addition, a homeopath's history with the College is taken into consideration, and this may affect how a complaint is dealt with. If your complaint is not appropriate for the resolution process, or you, the homeopath and the College cannot reach a resolution agreement, a College investigator will be appointed to the case.*

Discipline Hearings

Discipline hearings at the College are much like proceedings in a court of law and are open to the public. If the ICRC refers your complaint to the Discipline Committee, the College will present evidence before a Discipline Panel consisting of homeopaths and members of the public whose role is similar to that of a jury. They will hear the evidence presented by both parties and make a ruling based on that evidence.

You may be asked to testify at the hearing if you have information relevant to the allegations before the Discipline Panel.

Note that the Discipline Panel will make a decision independent of the College.

While College staff supports the work of the Discipline Panel by providing information and coordinating the hearing, they have no influence on its' decisions.

Outcome of Discipline Hearings

Unlike a criminal or civil court of law, the Discipline Panel does not have the authority to request jail time for the homeopath or seek financial compensation for you. Depending on the severity of the case, the Discipline Panel can order the homeopath to do one or more of the following:

- pay a fine to the Ontario government (not the College or the complainant);
- appear in person for a reprimand delivered by the Discipline Panel; complete remedial education.

  Additionally, the Discipline Panel may:
- place conditions a homeopath's practice; or
- suspend the homeopath from working for a set period of time; and/or, in the most serious cases (especially sexual abuse) evoke the homeopath's ability to practice.

If your complaint results in a hearing before the Discipline Committee, you will receive a copy of the Panel's decision and reasons after the matter is concluded. In addition, the results of all disciplinary hearings are published in the College's newsletter, made public on the College's website and Public Register.

Conclusions

No matter which option is used to resolve your complaint, a representative from the College will be there throughout the process to answer your questions.

If you have concerns with a homeopath's practice, and want to lodge a complaint with the College, contact 647-749-9366 to speak with a College Representative.