

Complaints & Discipline

What CDSBC can investigate

The *Health Professions Act* (HPA) gives CDSBC the authority to investigate complaints about the conduct or competence of, and the dental treatment provided by, its registrants. This is done to ensure that all CDSBC registrants are practising competently and ethically to the current standard of care.

What CDSBC cannot do

CDSBC does not have the authority to do the following:

- Pay money to a complainant, or order a registrant to pay money to a complainant
- Order a dentist to provide a certain treatment to a patient
- Provide dental advice or dental treatment
- Refer patients to a new dentist
- Give legal advice or help in a lawsuit against a registrant
- Address business disputes between registrants

What to do if you get a complaint

1. Don't panic

- Chances are you will get a complaint at some point in your career
- Your professional obligation is to respond promptly and respectfully

2. Respond to CDSBC about the complaint

- Provide a detailed written report addressing each of the concerns raised
- For complaints about treatment of a patient, include all patient records, charts and radiographs
- If records are electronic, put on disc or email to CDSBC – don't print digital radiographs onto regular paper as they are not diagnostic

3. Take a breath and then review the complaint and your response with a trusted colleague

- Minimize emotionalism: be factual, dispassionate, and thorough
- Don't blame or be disrespectful of the patient – think about them reading your response
- You are the one with professional responsibilities, not the patient, no matter how difficult they may be

- If there are other witnesses to an event complained of, have them prepare a dispassionate, factual account and include it with your report

4. Don't be afraid to contact the patient/complainant to apologize or see if you can resolve the concerns directly

- If you weren't aware of the problem until you got the complaint, this is your chance to deal with the complainant to address the concern
- If appropriate:
 - » Apologize, if only for the fact there was a negative experience in your office
 - » Advise of steps that you will take to address concerns to ensure it doesn't happen again
 - » Offer to refer for second opinion, fix, refund money, etc.

5. Reflect on what you can learn from the complaint

6. If there is a claim against you, notify your insurer

How a Complaint is Resolved

The steps outlined below are for general information only. Exceptions may apply.

Complaints Process

(normally confidential)

Step 1

CDSBC Receives a Written Complaint

CDSBC investigates all complaints related to the conduct or competence of dentists, dental therapists and certified dental assistants.

Complaints that are trivial, frivolous, vexatious or made in bad faith are dismissed.

Step 2

Preliminary Evaluation

The complaints team conducts a preliminary evaluation and recommends one of three options for consideration by the Inquiry Committee*:

- (a) dismissal (e.g., purely financial matters)
- (b) early resolution (e.g. relatively simple complaints)
- (c) investigation (and assignment to a Complaint Investigator)

The complaints team includes 8 dentists.

Step 3

Inquiry Committee* Review

The Inquiry Committee reviews the complaint and decides next steps, if any.

The Inquiry Committee consists of dentists, certified dental assistants, and members of the public.

Step 4

Investigation

If not dismissed or resolved through early resolution, the next step is investigation. The Complaint Investigator gathers all relevant information and prepares a report for resolution.

This step may include telephone conversations, in-person interviews, and gathering of dental records, X-rays, models, and more.

The complaint letter is forwarded to the registrant, who has the opportunity to respond. The registrant's response is also provided to the complainant.

Step 5

Complaints Team Prepares Report with Recommendations

The complaints team reviews the summary report and recommendations for resolving the complaint. Resolution options include:

- (a) close the complaint with no action taken, or with some recommendations/best practice advice; or
- (b) ask the registrant to sign an agreement to take certain steps to improve their practice (such as taking certain courses to improve skills) or to be mentored by another registrant for a period of time.

A report summarizing the complaint, investigation and recommendations for resolution is prepared for the Inquiry Committee.

This is a collaborative process with the registrant. The registrant has the opportunity to discuss any concerns identified and the proposed resolution. The registrant:

- can agree, or
- can provide an alternative resolution proposal for the Inquiry Committee to consider (and can ask for a meeting with a panel of the Inquiry Committee.)

Each complaint is reviewed at a weekly complaints team meeting. The process is overseen by the Inquiry Committee, ensuring that there are multiple dentists reviewing each complaint file.

Step 6

Inquiry Committee Decision

The Inquiry Committee receives the report and recommendations for resolution and makes its decision.

The majority of complaints are resolved at this stage. Complaints only proceed if the registrant asks to appear before the Inquiry Committee, or if the Committee directs that a citation be issued against the registrant.

Remedial not Punitive
If concerns about a registrant's practice are identified, CDSBC takes a remedial and collaborative approach to resolving those concerns. All complaints resolved without a citation happen by consent.

Discipline Process

(normally public)

Step 7

Inquiry Committee Directs the Registrar to Issue a Citation

Citations are issued in the rare instances where an issue is serious, an agreement cannot be reached, and/or the registrant has not responded to the complaint.

A citation is a formal document that lists the allegations against the registrant and provides notice that there will be a public hearing before the Discipline Committee.

Less than 2% of complaints reach the discipline stage. Even after a citation is issued, the registrant can make a proposal to the Inquiry Committee to resolve the citation.

*For simplicity, the terms Inquiry Committee and Discipline Committee are used here to refer to either panels or meetings of the whole committee

A Committee-driven Process

The Inquiry Committee gives direction and decides how each complaint will be resolved. In the event that a complaint proceeds to a discipline hearing, the Discipline Committee will determine the resolution.

Frequently Asked Questions

What is my role in the process as the subject of a complaint?

The registrant is usually asked to provide a written response to the complaint along with the patient records. The response will be provided to the complainant. Any other dentists involved in the patient's care may also be asked to provide a report and records.

Should I get a lawyer?

This is up to you. The process is not intended to require legal counsel in most cases; however, a lawyer's experience and expertise may be helpful.

How long will it take for the College to close the complaint against me?

This will depend on the complexity and seriousness of the complaint. The College strives to resolve all complaints as quickly as possible but is subject to many factors outside of its control – such as our ability to connect with the registrant/complainant, delays in obtaining records, vacations, etc. The best way for registrants to speed things up is to provide prompt, thorough responses to College communications.

What does it mean to enter into an agreement with the College?

The majority of agreements are agreed upon educational or remedial courses. These arise because of a concern noted with some aspect(s) or a registrant's practice.

Are agreements made between the College and registrants negotiable?

Yes they are, bearing in mind that if a concern has been identified, the College has a non-negotiable obligation to address it in some meaningful way.

Agreements may require a registrant to attend study clubs, take specific courses, undertake a case review with a particular dentist, or enter into a mentorship. They may also require periods of monitoring to ensure the issues regarding standards of care and/or ethical conduct have been addressed.

Agreements are made by consent and in every case are reviewed by the Inquiry Committee.

Why do some Agreements include monitoring while others do not?

This is a matter of discretion for the Inquiry Committee. Monitoring is generally sought if the concerns are noted in more than one case, or if the concerns are serious or multi-faceted and it is necessary to verify that the educational program was effective.

Will the complaint be made public?

The complaint resolution process is generally confidential and so the vast majority of agreements are not made public. Under the HPA, any information obtained in the course of an investigation must not be disclosed and must remain confidential, subject to some exceptions.

If an agreement relates to a "serious matter" as defined by the HPA, then CDSBC is required by law to notify the public. In addition, if the matter proceeds to a discipline hearing, then the HPA requires us to provide notice that there will be a public hearing before the Discipline Committee and publish the outcome.

While the College makes every effort to ensure complaints are kept confidential, it cannot guarantee confidentiality. College records are subject to the provisions of the HPA, *The Freedom of Information and Protection of Privacy Act* (FOIPPA) and lawful court orders.

Complainants who apply to the Health Professions Review Board for review of a decision will receive a copy of the College's files. In addition, under FOIPPA the College is required to provide copies of documents to a person whose interests may be affected. Court orders may also require the College to provide copies of documents.

If I sign a settlement agreement with a patient, does that settle/cancel the complaint the patient has filed with CDSBC too?

No. The civil/regulatory processes are separate, and there is no ability for a registrant to "settle a complaint" with the complainant. It is the College's position that any agreement that purports to require a complainant to withdraw a complaint or to refrain from communicating with the College is against public policy and unenforceable.