

The College of Podiatrists of Canada

Complaints and Discipline Rules & Procedures

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THE COLLEGE
OF PODIATRISTS
OF CANADA

Mission Statement

The College of Podorthics of Canada is a national self regulatory body whose primary purpose is to protect the Canadian public who receive foot-related services from Certified Podorthists.

We ensure that certified members are accountable to the highest standard of practice through our certification of members and facilities, the monitoring of continued competency and the enforcement of ethical conduct.

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The College of Podorthics of Canada

Complaints and Discipline

Rules & Procedures

Phase 1

A complaint may be received from any public source, any member of The College of Podorthics of Canada (CPC), or from the CPC itself. Complaints shall be in written form and shall be sent to the Head Office of CPC, to the attention of the Executive Director. The Executive Director of CPC shall process the complaint in the following manner:

- a) The Executive Director shall assign a case file number to the complaint (eg. 2010-001)
- b) The Executive Director shall forward the complaint to the Chair of the Ethics Committee;
- c) Within 14 days of receipt of the complaint, the Executive Director shall send a written acknowledgement of receipt of the complaint to the complainant, advising that the complaint has been forwarded to the Chair of the Ethics Committee;

Files regarding complaints will be kept at the Head Office of the CPC and shall be maintained for a period of 10 years unless a member has been suspended or their Certificate of Registration has been revoked as a result of the process, in which case they shall be kept indefinitely.

Review of Complaint By Chair Of Ethics Committee

Upon receipt of a complaint, the Chair of the Ethics Committee shall review the complaint and determine:

Option 1:

That the complaint is unfounded, or not within the jurisdiction of the CPC, and ought to be dismissed, in whichever such case, the complainant will be notified of this determination. It shall not be necessary for the member that is the subject matter of the complaint (the "member involved") to be informed of the complaint made against him or her.

Option 2:

That the complaint is within the jurisdiction of CPC and that more information is required in order to further adjudicate the complaint, in which case the member involved shall be notified.

Option 3:

If the complaint appears to be within the jurisdiction of CPC, the CPC /ethics committee may conduct an anonymous investigation to collect more information

Informing The Member Involved And Requesting A Written Response

Once the Chair of the Ethics Committee determines that the complaint is within the jurisdiction of CPC and the member involved ought to be informed of the complaint and be requested to provide a written response thereto, the Chair of the Ethics Committee shall send a letter to the member involved within 14 days of the date of receipt of the complaint, informing the member involved of the complaint, and enclosing a copy of the complaint itself and a copy of these Complaints and Discipline Rules and Procedures. The member involved will be asked to provide a written response to the complaint within 21 days. The consent for release of information in files and or interviewing pertinent individuals shall be obtained from the member involved at this point.

Following Receipt Of Written Response From The Member

Upon receipt of the written response from the member involved, the Chair of the Ethics Committee shall, within 21 days of such receipt, determine whether the complaint ought to be dismissed, resolved informally, resolved by way of mediation or that further investigation is required.

When The Complaint Is Dismissed

In the event the Chair of the Ethics Committee reviews the written response and the original complaint and determines there is no basis to proceed any further with the complaint, both the complainant and the member involved will be advised in writing that it has been determined that there is no basis under which the complaint shall proceed.

When The Complaint Should Be Resolved Informally

In the event that the Chair of the Ethics Committee determines that the complaint has merit, but that an informal resolution is appropriate in the circumstances, the Chair of the Ethics Committee shall: advise the complainant and member involved in the proposal to resolve the complaint on an informal basis and inquire whether such informal resolution is an acceptable method of resolution of the complaint;

In the event that the complainant and member involved consider an informal resolution to be acceptable, the Chair of the Ethics Committee shall undertake to implement such an informal resolution, either by meeting with the complainant and the member involved in person or by teleconference, or by way of written communication between the parties.

In the event that either or both the complainant and member involved do not accept informal resolution as the method of resolving the complaint, the Chair of the Ethics Committee may conclude that a formal investigation is required and the complaint may be referred to the Complaints and Investigation Committee (CIC) or the matter may be dismissed.

When The Complaint Ought To Be Resolved By Way Of Mediation

In the event that the Chair of the Ethics Committee determines that the complaint is one that is capable of being resolved by way of mediation, the complainant and the member involved shall be advised of such determination in writing and both parties will be asked to advise, within 14 days, whether mediation is an acceptable method of resolution of the complaint. In the event that either or both of the parties do not accept mediation as a method of resolution of the complaint, then the Chair of the Ethics Committee may conclude that a formal investigation is required and the complaint may be referred to the CIC or the matter may be dismissed.

In the event that both parties agree to mediation, the Chair of the Ethics Committee shall advise both the member involved and the complainant, in writing, of the decision to refer the matter to mediation and, further, advise that a mediator shall be appointed and that they will be advised of the proposed dates for the conduct of the mediation itself. The CPC will retain the services of the mediator and, depending upon the outcome of the mediation, has the right to seek costs from the member involved in the mediation.

When Further Investigation Is Required

In the event that the Chair of the Ethics Committee determines that the complaint is of a nature that warrants further investigation, the Chair of the Ethics Committee shall within 14 days of receipt of the written response from the member involved, refer the complaint to the CIC, which may appoint such individual or individuals as are deemed necessary (including outside investigators) to conduct an investigation into the alleged conduct of the member involved.

Informing The Member Involved and Complainant That The Matter Is Proceeding To Investigation

Upon making the determination that further investigation is warranted, and the complaint is to be referred to the CIC, the Chair of the Ethics Committee shall within 14 days of the referral to the CIC notify the complainant and the member involved of such determination and referral.

Phase 2

Action To Be Taken By The Complaints And Investigation Committee

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The CIC will be forwarded a copy of the original complaint as well as a copy of the response of the member involved regarding the alleged complaint. The CIC will prepare an investigation. The CIC shall have the ability to hire external investigators if necessary. The investigation process may include, but is not limited to interviewing persons relevant to the complaint, reviewing client files and or records, reviewing nonclinical materials related to the case and conducting any other such investigation as may be deemed necessary.

Power To Investigate Beyond The Scope Of The Complaint

The CIC may conduct such further investigations or refer such other matters to the Discipline Committee (DC) as may be determined during the course of the investigation.

Chair Of Ethics Committee And Chair Of The CPC To Be Informed Of Status Of Complaint

The Chair of the Ethics Committee shall be informed on a regular basis as to the status of the complaint before the CIC by the CIC Chair at least every 30 days. The Chair of the Ethics Committee shall then advise the Chair of CPC accordingly.

As a result of the investigation process the CIC will make recommendations to the Chair of the Ethics Committee.

1. Determining No Further Action Is Warranted

If upon completion of its investigation, the CIC determines that the complaint is without merit, it shall inform in writing the complainant and the member involved that no further action shall be taken against the member involved.

2. Accepting Voluntary Surrender Of Member's Certificate Of Registration

In the event that upon notification to the member involved, regarding the referral to the CIC, the member involved proposes to voluntarily surrender his or her certificate of registration, the CIC may accept such surrender as the resolution, in whole or in part, of the complaint. However, notwithstanding the voluntary surrender of the member's certificate of registration, the CIC shall be entitled to refer the matter to the Discipline Committee if it deems further investigation and discipline may be warranted.

3. Placement Of Conditions On Practice

In the event that the CIC determines that, it is in the best interests of the public to impose or place conditions on his or her practice on an interim basis, the CIC shall, within 7 days, inform the member involved and the complainant in writing that there will be a placement of conditions on the practice of the member involved, pending completion of the investigation.

4. Cease Particular Conduct

If upon completion of its investigation, the CIC concludes that a breach of the Code of Ethics has occurred, but does not warrant a suspension, a formal reprimand, the imposition of specific conditions on the member's practice, suspension or revocation of the member's certificate of registration, the CIC shall inform the member involved that it has concluded that a violation of the Code of Ethics has occurred and shall order the member involved to cease from engaging in any further conduct. The CIC shall also notify the complainant of the decision it has made and the action it has taken in this regard.

5. Referring The Matter To Mediation

If upon completion of its investigation, the CIC concludes that the complaint is of a nature that it may potentially be resolved by way of mediation, it shall inform the member involved and the complainant of its recommendation to refer the matter to mediation. If either the complainant or the member involved (or both) do not accept mediation as an acceptable manner in which to resolve the complaint, the CIC shall advise both the member involved and the complainant of this fact and shall then resolve the complaint in one of the other manners prescribed herein (i.e. interim suspension or placement of conditions, order to cease particular conduct, referral of complaint to the Discipline Committee, etc.)

In the event that both the member involved and the complainant advise that mediation is an acceptable manner of resolving the complaint, the Chair of the Ethics Committee shall advise both the member involved and the complainant, in writing, of the decision to refer the matter to mediation. Thereafter, the member involved and complainant will be advised of the proposed dates for the conduct of the mediation itself.

6. Referring The Matter To The Discipline Committee

In the event that the CIC determines that the conduct complained of may warrant further review and possible discipline, the CIC shall notify the Chair of the Ethics Committee who shall appoint a Discipline Committee to hear the matter.

Decisions To Be Made In Writing

All of the CIC's recommendations shall be in writing to the Chair of the Ethics Committee. The Chair of the Ethics Committee will then provide written notification regarding the recommendations to the complainant and the member involved. Such notification shall contain information regarding the procedure for appealing the decision. The Chair of the Ethics Committee shall send its decision via the Head Office of CPC.

Phase 3

When The Matter Has Been Determined To Require Referral To The Discipline Committee

Appointment Of Discipline Committee By Chair Of The Ethics Committee

Upon receipt of the recommendation from the CIC of the need for further review and possible discipline, the Chair of the Ethics Committee shall appoint a Discipline Committee (DC) from amongst a pre-determined group of 10 individuals, one of which should include a non-CPC member.

Notification Of Referral To Discipline Committee

Upon the recommendation to refer the matter to the DC, the Chair of the Ethics Committee shall notify both the member involved and the complainant, in writing, of such determination within 14 days of such decision being made. Both the complainant and the member involved shall further be advised that the DC shall determine whether additional information is required from either of them and, further, advise that a hearing will be necessary for the determination of the complaint (a "Disciplinary Hearing").

Scheduling Of Disciplinary Hearing

Upon the matter being referred to the DC, the Chair of the Ethics Committee, shall schedule a Disciplinary Hearing to take place within 90 days of the receipt of the recommendation from the CIC. In doing so, the Chair of the Ethics Committee shall inform the member involved and complainant, in writing, that a Disciplinary Hearing is to be scheduled, with proposed dates, times and location of such hearing. In scheduling the date

and location of the Disciplinary Hearing, the Chair of the Ethics Committee shall consider what is mutually convenient for all parties.

Complainant And Member To Pay Own Costs Of Attending Disciplinary Hearing

The complainant and the member involved shall pay their own transportation, accommodation and other costs associated with attendance at the Disciplinary Hearing.

Procedure For Conducting Disciplinary Hearing

The disciplinary hearing shall be conducted by a DC of no less than three. A Chair of the DC shall be appointed by its members.

The Chair shall commence the Disciplinary Hearing by reviewing the complaint and calling on legal counsel for CPC to present its case. The presentation of the CPC's case may include calling the complainant as a witness should this be considered necessary. The DC will ask any questions as may be required. The committee shall then afford an opportunity for the member involved to respond to the complaint and make such submissions as the member feels are relevant for the purposes of the disciplinary hearing.

Member Involved Entitled To Have Counsel

The member involved shall be entitled to be represented by legal counsel at the disciplinary hearing. Notwithstanding this, the member must still be in attendance. Failure by the member involved to attend the disciplinary hearing may result in an adverse inference being drawn against the member involved in respect of the complaint. The member involved shall be solely responsible for all costs and fees of their legal counsel.

Power Of Committee To Call Witnesses

The DC shall have the authority to call any witnesses it deems necessary in order to conduct the disciplinary hearing and make a determination regarding the complaint before it.

Discipline Committee's Determination

Within 30 days of the conclusion of the disciplinary hearing, the DC shall render its decision, which decision shall be in writing and shall be comprised of one or more of the following dispositions:

1. Dismissal Of The Complaint

In the event the DC is satisfied that the complaint is without merit, the DC shall issue an order dismissing the complaint.

2. Reprimand

In the event that the DC feels that a breach of the Code of Ethics has occurred, which does not warrant the imposition of conditions on the member's Certificate of Registration or a suspension or revocation of the member's Certificate of Registration, the DC may issue a formal reprimand to the member involved.

3. Imposition Of Specific Conditions On The Member's Certificate Of Registration

In the event that the DC determines that a breach of the Code of Ethics has occurred, but that the member's Certificate of Registration ought not to be suspended or revoked, the DC may impose specific conditions on the member's Certificate of Registration for a specified or indefinite period of time.

(Examples of such conditions may include restrictions on the practice of the member involved pending completion of certain educational programs or the satisfaction of such other conditions as the DC deems appropriate).

4. Suspension Of Certificate Of Registration

Should the DC determine that the conduct complained of amounts to a breach of the Code of Ethics, which warrants the temporary revocation of the member's Certificate of Registration, the DC may issue an order for the Registrar of The CPC to suspend the member's Certificate of Registration for a specified period of time. Upon the expiry of the period of suspension, the DC may impose conditions upon the member's Certificate of Registration for a specified or indefinite period of time.

5. Revocation Of Certificate Of Registration

In the event that it is determined that the conduct complained of is such that the imposition of any other form of discipline available to the DC is insufficient or inappropriate, having regard to the public interest, the DC may issue an order for the Registrar of The CPC to revoke the member's Certificate of Registration.

6. Ordering The Payment Of A Fine

In addition to the sanctions referred to herein, the DC shall have the discretion, to require the member involved to pay a fine.

Order Of Costs

The DC, may in its absolute discretion, order the member involved to pay costs, as part of its decision to reprimand, impose conditions, suspend the member's Certificate of Registration, revoke the member's Certificate of Registration or require the payment of a fine. In doing so, the DC shall have regard to expenses incurred in respect of the complaints, and disciplinary process, as well as the fees and expenses incurred as a result of any investigations leading up to the discipline hearing, as well as the discipline hearing itself.

Decisions To Be In Writing

The decision of the DC shall be in writing and shall contain its reasons for the determination made. The DC shall issue its decision via the Head Office of CPC. The decision, together with information regarding the procedure for appealing the decision shall be sent to the complainant and the member involved by the Chair of the Ethics Committee.

Publication Of Decision Of The Discipline Committee

The head office of The CPC shall publish the decision of the DC in any publication that it regularly circulates to its members. Where the decision of the DC involves the suspension of the member's Certificate of Registration or the revocation of the member's Certificate of Registration, the Head Office of The CPC shall cause notification of such decision to be published in a local newspaper in the city, town or village where the member involved carries on business or is employed as a Pedorthist, Pedorthic Master Craftsman or Pedorthic Technician, as the case may be.

Chair Of Ethics Committee And Chair Of The CPC To Be Informed Of Proceedings

The Chair of the Ethics Committee shall be informed on a regular basis as to the status of the complaint before the DC and any determinations made by that committee. The Chair of the Ethics Committee shall then advise the Chair of CPC accordingly.

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Appeal of the Determination by Complaint and Investigation Committee that No Further Action is Warranted

If upon completion of its investigation, the CIC determines that the complaint is without merit, it shall inform the complainant and the member involved in writing that no further action shall be taken against the member involved and that the complaint is thereby dismissed.

The complainant has the right to appeal the decision of the CIC to the Registrar of the CPC. The complainant will have 14 days from the receipt of the letter to state reasons why they feel that their complaint has merit and should be heard. The Registrar shall send the Complainant's response to the Appeals Committee (AC). The AC shall sit as a panel of 3. The AC shall determine whether the decision of the CIC should be upheld; or whether the matter should be sent back to the Chair of the Ethics Committee so that a different CIC panel (New CIC Panel) be chosen to investigate. The determination of the AC to uphold the CIC decision shall be final. The determination of the New CIC Panel that the complaint is without merit and that no further action shall be taken against the member involved, shall also be final.

Appeal of Order of Interim Suspension by Complaints and Investigation Committee

The member involved may appeal a decision by the Complaints and Investigations Committee ordering the interim suspension of the member's Certificate of Registration pending further investigation. The Notice of Appeal must be submitted in writing and sent to the Chair of The CPC by registered mail within 14 days of receipt by the member involved of the Notice of interim suspension the member involved must set out in the Notice of Appeal the grounds for such appeal. No new facts may be argued or presented. Upon receipt of the Notice of Appeal, the Chair of The CPC will refer the Notice of Appeal

to the AC, who will consider the Appeal. The AC shall sit as a panel of 3. The AC shall determine the Appeal in one of the following ways:

- 1 Dismiss the Appeal;
- 2 Grant the Appeal in part and reduce the length of the Interim Suspension; or
- 3 Grant the Appeal and set aside the Order of Interim Suspension

The decision of the AC shall be sent to the member involved and the Chair of the CPC in writing within 72 hours of its decision.

Appeal by Member Involved of Decision of Discipline Panel

The member involved may appeal the decision of the DC by making application to the Superior Court in the nearest Judicial Centre in the Province where the member involved resides, for judicial review of the decision. The Notice of Application must be filed within 60 days of receipt by the member involved of the decision of the DC. The CPC shall be served with a copy of the Notice of Application in accordance with the Rules of Procedure of the Superior Court in the nearest Judicial Centre in the Province where the member involved resides.



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