

Complaint Reviews at the Health Professions Appeal and Review Board (HPARB): The Essential Information (2025 Update)

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As legal counsel acting for all types of regulated health professionals (i.e. pharmacists, chiropractors, massage therapists, etc.) we are regularly asked questions about complaint reviews before the Health Professions Appeal and Review Board ("HPARB").

These types of inquiries have become more common over the past several years, as health professionals are increasingly commencing complaint reviews seeking to set aside decisions made by the Inquiries, Complaints and Reports Committee ("ICRC"). This is occurring because legislative changes enacted in 2016 require certain ICRC dispositions, such as oral cautions and specified continuing education or remediation programs ("SCERPs") to be posted on the public register, where they are to remain on an indefinite basis.[1]

This article will set out the essential information that every health professional needs to know about HPARB complaint reviews.

1. What is HPARB?

HPARB is an independent adjudicative agency that obtains its authority from the *Regulated Health Professions Act, 1991* (the "RHPA"). One of its key tasks is to review complaint decisions made by the ICRCs of health professions colleges.

2. Who Can Request a Complaint Review?

Either the complainant or the health professional who was the subject of the complaint may request a complaint review before HPARB.

Historically, complaint reviews were almost exclusively requested by complainants. As discussed above, however, in recent years, complaint reviews are also increasingly being requested by health professionals who want notations of oral cautions and/or SCERPS removed from their public register.

3. How do you Request a Complaint Review?

Requests for a complaint review are made to HPARB and must be submitted in writing.

The person who requests the complaint review is known as the Applicant, whereas the person responding to the complaint review is known as the Respondent.

4. Is There is Time Limit to Request a Complaint Review?

Yes. A request for a complaint review must be made within 30 days of receiving the letter from the applicable health professions college enclosing the decision of the ICRC and advising of the right to request a complaint review before HPARB.[2]

5. Will Information About the ICRC Decision Remain Posted on the Public Register if a Complaint Review has been Requested?

Yes. If a complaint review is requested, any information posted on the public register about the ICRC decision will remain posted. However, a notation is typically added indicating that the matter is currently being reviewed by HPARB.

6. Do the Parties Receive any Documentary Disclosure Prior to a Complaint Review?

Both parties are provided with a Record of Investigation, which contains all the documentation that was considered by the ICRC. If any documentation is withheld, HPARB will advise the parties.

7. Are there any Steps That Occur Before the Complaint Review?

Prior to the complaint review, both parties (or their representatives) are required to participate in a case conference with a facilitator appointed by HPARB. Case conferences, which are typically conducted via conference call, are an opportunity to clarify the issues; outline the mandate and powers of HPARB; discuss any procedural steps or motions; and to schedule a date for the complaint review.

The potential settlement of any or all the issues is also discussed during a case conference.

8. Can a Complaint Review be Withdrawn?

An Applicant can request a withdrawal of a complaint review, but such a request will only be granted if the Respondent provides their consent.

9. Are Complaint Reviews Conducted In-Person?

Complaint reviews may be conducted in-person, in writing, electronically (i.e. by conference call, videoconference, etc.) or any combination of these formats. Since the onset of the pandemic, most complaint reviews are now conducted by conference call or videoconference (i.e. Zoom).

10. Are Complaint Reviews Open to the Public?

Yes. HPARB is required to hold complaint reviews in public, unless there are exceptional reasons not to do so.[3]

11. Do the Parties Require Legal Counsel?

No. However, in most cases, health professionals are represented by legal counsel at complaint reviews.

Complainants are typically self-represented, although they are on occasion represented by legal counsel or another representative.

12. Are the Parties Required to Attend at a Complaint Review?

The parties are expected to attend at a complaint review or have legal counsel or another representative attend on their behalf. If a party (or their representative) does not attend, the complaint review may proceed in their absence.

13. Does the Health Professions College Participate in a Complaint Review?

Although the health professions college that issued the decision is not considered a party to the complaint review, they typically send a representative to answer any questions that HPARB may have. This representative is usually the investigator who oversaw the complaint.

HPARB also possesses the legal authority to require the health professions college to send a representative.[4]

14. What is the Scope of Review at a Complaint Review?

In conducting a complaint review, HPARB is legally required to assess two items: (1) the reasonableness of the ICRC decision; and/or (2) the adequacy of the investigation conducted by the ICRC.[5] It is beyond the mandate of HPARB to engage in any other inquiries.

15. What is the Procedure at a Complaint Review?

During a complaint review, the Applicant (or their legal counsel or other representative) will provide submissions to the HPARB Panel as to why they believe the decision of the ICRC was not reasonable and/or the investigation was inadequate.



Thereafter, the Respondent (or their legal counsel or other representative) will then have an opportunity to provide submissions to the HPARB Panel on these same issues.

The Applicant will then have an opportunity to provide a reply submission.

The HPARB Panel may pose questions to either party or the health professions college representative at any point during the complaint review.

16. Are There Any Witnesses at a Complaint Review?

No. There are no witnesses at a complaint review. In addition, the parties cannot question one another or the health professions college representative.

17. What are the Powers of HPARB?

After hearing a complaint review, HPARB may do one or more of the following:

- confirm all or part of the ICRC's decision;
- make recommendations to the ICRC;
- require the ICRC to exercise any of its powers other than to request a Registrar's investigation.[6]

HPARB cannot, however, order the ICRC to do things that the ICRC would not otherwise have the legal authority to do, such as make findings of professional misconduct or incompetence.

18. How does HPARB Communicate its Decision?

HPARB communicates its decision in writing, as set out in a Decision and Reasons.

19. Are Complaint Review Decisions Published?

Yes. The Decision and Reasons of HPARB are published on a legal database called canlii.org. Contrary to prior HPARB practices, the full name of the health professional is also disclosed, irrespective of the result of the case. Previously, only initials were included.

20. Can a Complaint Review Decision be Appealed?

Yes. Both the health professional and the complainant possess a legal right to commence a judicial review of an HPARB complaint review decision. Such judicial reviews are heard by the Divisional Court of Ontario.

Conclusion

Given the stakes involved, health professionals considering an HPARB complaint review, or those already named as Respondents in such proceedings, would be well advised to retain experienced health law counsel to assess the matter and ensure that their interests are being protected. A PDF version is available to download [here](#).

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About the Author

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law and provides advice and representation to regulated health professionals in respect of all types of regulatory matters, including complaint and disciplinary matters before their regulatory colleges, and complaint reviews before the Health Professions Appeal and Review Board.

[1] see s.23(1) of the Health Professions Procedural Code (the "Code") of the RHPA.

[2] see s.29(3) of the Code.

[3] see s.34(1) (item 2) and s.45 of the Code.



[4] see s.33(2)(b) of the Code.

[5] see s.33(1) of the Code.

[6] see s.35(1) of the Code.

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