

KEEPING CURRENT

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Responding to Complaints Before the College of Chiropractors of Ontario (COCOO): A Defence Lawyer's Perspective

By Lad Kucis

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

Lad Kucis
Partner
416.864.3114
lkucis@grllp.com

As legal counsel for chiropractors, we are regularly asked questions about the complaints process before the College of Chiropractors of Ontario ("COCOO").

Although the regulatory framework governing complaint matters is quite extensive, the following is the essential information that chiropractors need to know.

Role of COCOO

At the outset, it is imperative that chiropractors recognize that the mandate of COCOO is to protect the public by ensuring that chiropractors act in accordance with the *Chiropractic Act, 1991*, standards of practice and the Code of Ethics. This public protection mandate underlies all actions taken by COCOO.

Responding to a Complaint

If a complaint is filed against a chiropractor, COCOO is required to provide the member with a copy of the complaint within 14 days.

The chiropractor then has 30 days to respond to the complaint. If a chiropractor requires additional time to prepare their response, they should contact the investigator assigned to the file to request

an extension. If a complaint involves a clinical issue, COCOO will also typically require production of the patient chart.

In responding to a complaint, it is important to ensure that the response is drafted in a clear and professional manner, addressing each of the concerns in a thorough, reflective and professional manner. A copy of the response is typically provided to the complainant, who is given an opportunity to submit a reply.

If the complainant submits a reply, COCOO has the discretion as to whether to provide a copy to the chiropractor for further comment. For example, COCOO may choose to do so in cases where the reply raises issues that were not mentioned in the complaint.

If the chiropractor has any prior decisions before the COCOO, they will also be provided with copies of such cases and an opportunity to make written comments. Any such comments should be made in a submission separate from the response to the complaint, failing which they will be provided to the complainant.

ICRC Review

Ultimately, all of the documentation collected as part of a complaint matter is provided to a panel of the Inquiries, Complaints and Reports Committee (“ICRC”), which is comprised of chiropractor and public members, to determine the appropriate action to be taken. Chiropractors and complainants are not permitted to attend the ICRC meeting.

If the ICRC determines that there is no risk or minimal risk in respect of the conduct of the chiropractor, it will take no further action or provide written advice and recommendations. Neither of these dispositions result in a notation being made on the public register.

If the ICRC has a moderate level of concern, it may require the chiropractor to appear before it for a caution or require the completion of a Specified Continuing Education and Remediation Program (“SCERP”). Such actions have become much more serious dispositions over the past several years, as legislative changes now require cautions and SCERPs to be posted on the public register.

The most serious action that the ICRC can take is to refer a chiropractor to the Discipline Committee on specified allegations of professional misconduct or incompetence. If a matter is referred to the Discipline Committee, a notation of that fact is immediately posted on the public register, which is available on the COCOP website, and the chiropractor will be provided a Notice of Hearing setting out the charges of professional misconduct.

With the exception of matters referred to the Discipline Committee, the ICRC will provide reasons for its decision, as set out in a Decision and Reasons, which is provided to both the chiropractor and the complainant.

HPARB Review

Both the chiropractor and the complainant have the right to request a review of an ICRC decision to an independent tribunal called the Health Professions Appeal and Review Board (“HPARB”).¹ A key exception is that ICRC decisions referring complaint matters to the Discipline Committee cannot be appealed to HPARB.

In the past, the vast majority of HPARB reviews were requested by complainants. However, chiropractors are increasingly requesting these types of reviews, as they are seeking to set aside ICRC decisions that have resulted in findings that are now required to be posted on the public register (i.e. cautions and SCERPs).

The conduct of an HPARB review involves the chiropractor and the complainant (or their respective counsel) making oral submissions regarding the reasonableness of the ICRC decision and/or the adequacy of its investigation. It is beyond the mandate of HPARB to engage in any other inquiries.

Following the review, HPARB may do one or more of the following:

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

Final Comments

In view of the potential consequences, it is imperative that chiropractors treat all complaints very seriously and take great care in preparing responses and any other submissions. Given the stakes involved, chiropractors should also strongly consider obtaining assistance from experienced legal counsel to ensure that their interests are being properly protected.

¹ For more information about complaint reviews before HPARB, please see my recent articles, [“Complaint Reviews at The Health Professions Appeal And Review Board \(HPARB\): The Essential Information”](#), *Keeping Current*, January 6, 2025, and [“HPARB Complaint Reviews: 5 Tips for Regulated Health Professionals”](#), *Keeping Current*, January 20, 2025.



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About the Author

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law. As part of his practice, he provides advice and representation to chiropractors and other regulated health professionals regarding the full spectrum of college matters, including complaints, investigations, discipline and appeals/reviews.

He can be contacted at 416.864.3114 or lkucis@grllp.com.

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