

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

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

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

Role of the College

At the outset, it is imperative to recognize that the mandate of the College is to regulate the practice of veterinary medicine in Ontario to protect and serve the public interest. This regulatory function includes overseeing the professional conduct of veterinarians, including their adherence to the *Veterinarians Act*, the Professional Practice Standards and policies established by the College.

Responding to a Complaint

If a complaint is filed in respect of a veterinarian, the College will provide a copy of the complaint to the veterinarian, as well as a list of all of the issues raised.[1]

As set out under the *Veterinarians Act*, a veterinarian is to be provided with at least two weeks to submit a written response to the complaint. If a veterinarian requires additional time to prepare their response, they should contact the College in advance of the deadline to request an extension.

In preparing a response to a complaint, it is important to ensure that it is drafted in a clear and professional manner, addressing each of the concerns in a thorough and reflective manner. The College will also request that the veterinarian submit all relevant records regarding the complaint, including medical records, x-rays, logs, etc.

A copy of the response is then provided to the complainant, who is given an opportunity to submit a reply.

In certain cases, the College may also reach out to witnesses and obtain witness statements.

Complaints Committee Review

Ultimately, the entire investigation file is provided to a panel of the Complaints Committee for its review. Complaints Committee panels are comprised of veterinarian and public members and possess the authority to make a wide range of dispositions.

If the Complaints Committee has serious concerns regarding the conduct of the veterinarian, it may refer a veterinarian to the Discipline Committee on specified allegations of professional misconduct. If a veterinarian is found guilty of professional misconduct, they will be subject to a penalty which may include a reprimand, a suspension or in the most serious cases, revocation of their licence to practice. Summaries of all Discipline Committee hearings are also posted on the public register of the veterinarian.

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Alternatively, if the Complaints Committee only has a moderate level of concern, it may provide written or verbal advice to the veterinarian or request that the veterinarian enter into an undertaking to complete certain education and/or training. If a veterinarian fails to complete an undertaking, the matter may be referred to the Executive Committee for further action.

Finally, if the Complaints Committee believes that a complaint is frivolous and vexatious or if the committee does not have any concerns about the conduct of the veterinarian, it will take no further action.

With the exception of matters referred to the Discipline Committee, or matters referred to the Registrar regarding concerns of impairment, the Complaints Committee will provide reasons for its decision, as set out in a Decision and Reasons. Both the veterinarian and the complainant are provided with a copy of the Decision and Reasons.

HPARB Review

Both the veterinarian and the complainant have the right to request a review of a Complaint Committee decision to an independent adjudicative agency called the Health Professions Appeal and Review Board ("HPARB"). Such requests must be made within 30 days of receiving the decision. The only decisions of the Complaints Committee that cannot be reviewed by HPARB are referrals to the Discipline Committee or matters referred to the Registrar.

Prior to an HPARB review, the veterinarian and the complainant are provided with a record of investigation that contains all of the information reviewed by the Complaints Committee, subject to certain limited exceptions (i.e. information is not disclosed if it could jeopardize the safety of a person, etc.).

An HPARB review is typically conducted in-person and involves the veterinarian and the complainant (or their respective counsel) making submissions regarding the reasonableness of the decision of the Complaints Committee 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 decision of the Complaints Committee;
- make recommendations to the Complaints Committee that it considers to be appropriate; or
- require the Complaints Committee to take such action or proceeding as the Complaints Committee is authorized to undertake under the *Veterinarians Act*.

Final Comments

It is imperative that veterinarians treat all complaints very seriously and take great care in responding to complaints. Given the stakes involved, veterinarians should also strongly consider obtaining assistance from experienced legal counsel to ensure that their interests are being properly protected.

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 veterinarians regarding the full spectrum of CVO matters, including complaints, investigations, discipline hearings, appeals/reviews and accreditation issues.

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[1] in certain cases (i.e. miscommunications or minor standards issues), the College may suggest that the complaint proceed through the College's Mediated Resolutions Program (MRP), which is a confidential, alternative dispute resolution program that seeks to resolve complaints through negotiation. If either party does not wish to participate in the MRP, or if the MRP does not result in a resolution, the complaint will proceed in the ordinary course, as set out in this article.

(This blog is provided for educational purposes only, and does not necessarily reflect the views of Gardiner Roberts LLP).

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