

The Complaint Process Before the Ontario College of Pharmacists (OCP): What Pharmacists Need to Know

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As lawyers for pharmacists, we are regularly asked questions about the complaints process before the Ontario College of Pharmacists ("OCP").

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

Role of OCP

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

Responding to a Complaint

If a complaint is filed against a pharmacist, the OCP is required to provide the pharmacist with a copy of the complaint within 14 days.

In many cases, the pharmacist will also receive additional documentation that has been collected by the OCP as part of the complaint, such as pharmacy records from a Designated Manager.

The pharmacist then has 30 days to respond to the complaint. If a pharmacist requires additional time to prepare their response, they should contact the investigator assigned to the file to request an extension. The OCP will typically grant an initial request for an extension, as long as a valid reason is provided.

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. It is also generally advisable to acknowledge shortcomings and set out practice changes that have been made and/or educational steps that have been taken. A copy of the response is then provided to the complainant, who is given an opportunity to submit a reply.

If the complainant submits a reply, the OCP will provide the pharmacist with a copy of the reply for their comment. In addition, the OCP will also provide the pharmacist with any additional documentation that has been obtained as part of the complaint matter. As such, the pharmacist will have an opportunity to comment on all of the documentation that has been collected by the OCP.

If the pharmacist has any prior decisions before the OCP, they will be provided with copies of such cases along with an opportunity to submit written comments. These comments must be submitted separately from the response to the complaint, in which case they are not 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 pharmacist and public members, to determine the appropriate action to be taken. Pharmacists 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 pharmacist, 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 pharmacist 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, where they remain indefinitely.

The most serious action that the ICRC can take is to refer a pharmacist 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 OCP website, and the pharmacist will be provided a Notice of Hearing setting out the charges of professional misconduct.[1]

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 pharmacist and the complainant.

HPARB Review

Both the pharmacist 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").[2] 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, pharmacists 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 pharmacist 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;
- send the matter back to the ICRC with recommendations. For example, HPARB may recommend that further investigations be conducted about a particular issue;
- require the ICRC to exercise any of its powers, other than to request a Registrar's investigation. For example, HPARB may require the ICRC to take no further action in respect of a complaint;

Final Comments

In view of the potential consequences, it is imperative that pharmacists treat all complaints very seriously and take great care in preparing responses and any other submissions. Given the stakes involved, pharmacists should also strongly consider obtaining assistance from experienced legal counsel to ensure that their interests are being properly 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. As part of his practice, he provides advice and representation to pharmacists and other regulated health professionals regarding the full spectrum of college matters, including complaints, investigations, discipline and appeals/reviews.

[1] For more information about the OCP discipline process, please see my article, "Discipline Matters before the Ontario College of Pharmacists (OCP): A Defence Lawyer's Perspective", *Keeping Current*, 11 March 2024.



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

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