

## Section 6

### ***Complaints, Inquiries and Discipline***

This section contains a description of the disciplinary review program, a graphic representation of the process for dealing with complaints against registrants, and details of the disciplinary hearing and penalty setting process.

## ***Disciplinary Review Program Description***

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### **Introduction**

The disciplinary process is a responsibility of a self-regulating profession, and promotes accountability to the public and to its members. Policies and procedures of the disciplinary process of the College of Denturists of British Columbia are in accordance with the *Health Professions Act*, regulation, and bylaws.

### **Purpose**

- To protect the public interest by intervening when there is an indication of incompetent, unethical, or impaired practice by a registrant.
- To educate present and future members of the profession so as to ensure their commitment and ability to participate responsibly in the discipline process.
- To involve and educate members of the public so as to ensure that the public interest is represented and complaints by the public are dealt with in a reasonable manner.

### **Objectives**

- To respond to all complaints in a timely manner.
- To be fair and just to all involved and to act in a manner which is consistent with the principles of natural justice, *Health Professions Act*, rules, or any other laws which may apply.

### **Definitions**

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| Citation         | notice issued by the inquiry committee for a hearing by the discipline committee.  |
| Complainant      | person, or a representative for the person, making the complaint.  |
| Consent Order    | written agreement between the inquiry committee and the registrant in order to resolve a complaint without a formal inquiry. |
| Formal Process   | when resolution can not be reached through the informal process.   |
| Informal Process | discussions between the complainant and the registrant in order to seek a mutually acceptable resolution.                    |

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| Inspector         | individual contracted by the board who is empowered to investigate complaints, including visits to the office premises. |
| Peer Review Panel | a dentist panel that assesses dentures to currently accepted standards and reports to the inquiry committee.            |
| Registrant        | current or former registrant who is the subject of the complaint.   |
| Registrar         | employee of the College; also serves as an inspector and initial investigating officer for all complaints.              |

## **Types of Complaints**

### ***Professional Misconduct***

Any act which contravenes the *Health Professions Act*, regulations or bylaws; or when a registrant acts in a manner inconsistent with that expected of a registrant.

### ***Incompetence***

Provision of any service or any act that fails to meet the standard of practice.

### ***Contravention of the Act or Bylaws***

Actions may include:

- unregistered persons providing services of a dentist;
- providing unauthorized services to the public;
- students providing services without direct supervision of a licensed dentist;
- improper advertising;
- a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that would impair the ability to practice;
- failure to comply with a limit or condition imposed under the *Health Professions Act*, regulations or bylaws ( i.e., oral health certificates, prescriptions for partials, or failure to comply with a consent order or other practice restriction imposed as a result of a complaint).

## ***Professional Misconduct of a Sexual Nature***

Conduct between the registrant and the patient which may include:

- sexual intercourse, willing or unwilling;
- sexual harassment.

## **Committees**

### ***Inquiry Committee***

The committee is comprised of two denturists, one a registrant and the other a board member, as well as one public representative from the board.

The committee must investigate any written complaint or on its own motion, any contravention of the *Act*, regulation or bylaws; as well as any physical, mental, or emotional disturbance or an addiction to drugs or alcohol that impairs the ability of the denturist to practice.

As provided for in the *Act*, at the conclusion of an investigation, the committee may:

- take no further action;
- take any action it considers appropriate to resolve the matter between complainant and registrant;
- request the registrant not to repeat the conduct;
- request the registrant to take educational courses;
- request the registrant to consent to a reprimand;
- request the registrant to undertake or consent to any other action specified by the committee; or
- direct the registrar to issue a citation for a disciplinary hearing.

In cases where the committee does not order the registrar to issue a citation, the committee must report to the board the results of its investigation and decision, and must notify the complainant in writing of its decision. The complainant may appeal the committee's decision to the board.

Section 35 of the *Health Professions Act* states that the committee may also set limits or conditions on the practice of denturism by the registrant, or suspend a registrant's registration and/or license if it considers that action necessary to protect the public during an investigation or pending a hearing. If the committee does this, it must notify the registrant in writing of its decision and the reasons for that decision, and of the registrant's right to appeal that decision to the Supreme Court. If the committee determines these actions are no longer necessary to protect the public, it must cancel them and notify the registrant in writing of the cancellation as soon as possible.

## ***Discipline Committee***

The committee is comprised of two denturists, one a registrant and the other a board member, as well as one public representative from the board. The committee is a quasi-judicial tribunal to conduct hearings that arise from the issuing of citations ordered by the inquiry committee.

Discipline committee members are not given access to any information regarding complaints, other than the complaint file number provided during committee reports. Members of inquiry committee, the registrar, and all investigators are prohibited from serving as a panel member at a discipline committee hearing where the citation was issued by them as a member of the inquiry committee.

The purpose of a disciplinary hearing is to determine if the allegations are correct. It receives evidence regarding the conduct in question, decides if the allegations against the registrant are proven, and determines what actions will be taken.

A registrant may be represented by legal counsel at his or her own expense. Legal representation is recommended. Cost recovery from the registrant can be imposed if found guilty [*Health Professions Act*, Section 39 (1) (g)].

Publication of the decision resulting from discipline hearings or consent orders may appear in the registrant's regional newspaper and will appear in the College newsletter.

## **Policies and Procedures**

### ***Complaints***

- Complaints, concerns, or questions may be directed to the College regarding a registrant's practice by patients, other denturists, other professions, or individuals within the community. Sexual/discrimination complaints are referred to the Human Rights Council.
- Complaints must be in writing and directed to the office of the College of Denturists of B.C. and to the attention of the registrar and/or the inquiry committee.
- Under the *Human Rights Act* and *Freedom of Information and Privacy Act*, a complainant who acted in good faith, may not be subjected to any penalties or discriminated against, in any manner.
- A complaint that is not lodged within 12 months of the reported incidence will not be considered valid by the inquiry committee unless there are substantial extenuating circumstances for failure to report in a timely fashion.
- Upon receipt of a complaint, the registrar will open a file and assign a complaint number.
- Complaints regarding ill-fitting dentures are, where possible, to be resolved informally by the registrant and the complainant.

The inquiry committee may designate members from the Denturist Association of British Columbia to conduct a peer evaluation of a denture fitting complaint directed against one of the Association's members.

- All correspondence and information regarding a complaint will be kept in a secure place and treated as confidential by the registrar, all investigators, and by members of the inquiry committee.
- Complaints will be dealt with in a timely fashion.
- Committee reports to the board regarding complaints will be addressed by complaint number; and no specifics will be provided until resolution of the complaint by either signed consent order, disposition from a disciplinary hearing, or a non-appealed suspension of complaint by the inquiry committee.

### ***Investigative Process***

- Once a complaint is filed with the registrar, the registrant will be notified in writing, within 7 days if possible, of the complaint and its nature. The registrant will be given a copy of the complaint. The complainant will receive a copy of the registrant's response.
- The registrar or other appointed investigator will investigate the matter by contacting both the registrant and complainant; and obtain all information, in writing, deemed necessary to conduct a thorough assessment and make recommendations to the inquiry committee.
- Information may be gathered by interview, telephone, fax, peer review, or through any written documents, including patient records. The registrant must provide, in writing, within 20 days, any information that would help to resolve the complaint or explain the issue. A registrant is professionally obligated to respond to the request for information.
- If the inquiry committee needs further information regarding the complaint, it may direct the registrar or any designated inspector to conduct an inspection of the registrant's business premises.

The inspector may, without a court order, visit the workplace during work hours and inspect or observe any aspect of the registrant's practice, including provision of services, the equipment, materials or records. The inspector may also interview the registrant's colleagues and/or others in the workplace setting. If a patient is present, the inspector may not observe the practice of a registrant without the consent of that patient.

- The inspector will write a confidential report of the workplace inspection and deliver it to the inquiry committee in a timely manner.
- The inquiry committee may also direct an authorized individual to apply to the Supreme Court for an order to conduct a search/seizure at the premises of the registrant named in the complaint under Sections 29 and 30 of the *Act*.

## ***Actions Following an Investigation***

- Following the investigation, the registrar will provide the inquiry committee with an assessment and recommendations and all information, documents, records, and reports for their consideration, deliberation, and action.
- After considering all the information, the committee may:
  - take no further action if it deems the complaint to be trivial, frivolous, vexatious, or made in bad faith; or the registrant is practicing denturism competently and satisfactorily; or the complaint is not within the jurisdiction of the College;
  - take any action it considers appropriate to resolve the matter between the complainant and the registrant;
  - issue a consent order requesting the registrant to do one or more of the following: not repeat the conduct which initiated the complaint, take specific educational courses, accept a reprimand, accept any other actions specified by the inquiry committee;
  - direct the registrar to issue a citation to the registrant to appear at a hearing of the discipline committee.
- Following the signing of a consent order by the registrant, any deliberations and decisions that result from the inquiry committee are published in the newsletter of the college and may be reported to the board.
- The complainant is notified in writing of the results and actions taken by the inquiry committee. The complainant may object to the committee's findings when no remedial or disciplinary action is taken but must file an appeal with the board if it is the complainant's wish to seek further action. Upon hearing an appeal, the board may confirm the previous decision, reverse the decision, refer the decision back to the committee, or order the registrar to issue a citation.
- The registrar is responsible for monitoring the registrant's compliance with decisions made by the inquiry committee. This may be done through telephone communication, written reports from the registrant and any others associated with the compliance request, and/or inspections to the registrant's workplace.
- Compliance with all decisions results in final resolution of the complaint.
- If a registrant refuses to consent to undertake the decision of the inquiry committee or does not comply with the requested actions of the consent order, the committee may direct the registrar to issue a citation for a hearing by the discipline committee.

## ***Discipline Committee Hearing***

- A citation for a disciplinary hearing is a written summons that describes the complaint and the supporting evidence. It is delivered by registered mail or served on the registrant at least 30 days before the date of the hearing. The registrar notifies the complainant of the hearing date, time and place at least 14 days prior to the hearing.
- The hearing follows a formal process, and both the College and the registrant have the right to legal counsel at their own expense. The registrant may request a copy of all evidence and reports prepared by the College. At the hearing, witnesses supporting the complaint give testimony under oath and present their evidence. They may be cross-examined by the registrant or their lawyer and additional testimony and evidence may be presented in defense of the registrant.
- Hearings are open to enable other registrants and members of the public to see how denturists exercise their responsibility for self-regulation.
- Following the hearing, the discipline committee deliberates the testimony heard and evidence received, makes its decision on the allegations, and in a separate hearing assigns penalties based on its decision.
- The registrar notifies the registrant and complainant in writing of the disciplinary decision.
- The registrant has the right to appeal any decision of the discipline committee to the Supreme Court of British Columbia.
- The order to cancel a citation may be made by the board or the inquiry committee. If cancelled, the registrar provides written notice to the registrant and the complainant.
- If the registrant chooses to relinquish their registration from the College, the hearing may be cancelled.

## ***Protection of the Public***

- In extraordinary circumstances, if the safety of the public is deemed at risk, the registrar can initiate communication with the members of the inquiry committee to determine if immediate action is required. If so deemed, the committee may:
  - set limits or conditions on the registrant's practice during the investigation, or
  - suspend the registration/license of the registrant.

The committee must notify the registrant in writing of its decision, giving the reasons for the decision and of the registrant's right of appeal to the Supreme Court [Section 35 (2) of the *Health Professions Act*].

- The registrant, or anyone else affected by the decision to limit or suspend practice, has the right to appeal the decision to the Supreme Court within 30 days. Notice of the appeal is also served to the board, the inquiry committee, and the complainant.

- The appeal is heard by a judge who will uphold, change or reverse the limits, conditions or suspension; refer the decision back to the committee for review; or make any other order considered appropriate. The registrant can appeal the decision of the Supreme Court to the Court of Appeal.
- If the inquiry committee determines that the limits, conditions or suspension set previously are no longer needed to protect the public, they will be cancelled and the registrant notified in writing.

### ***Publication***

- One of the responsibilities of a self-regulating profession is accountability to the public and to the professional members. By publishing inquiry/discipline committee investigation results, the board demonstrates its accountability and professional integrity. Also, prevention and quality denturist practice is promoted through education.
- The results of any consent order, agreement or hearing will be published in the College newsletter, *The Articulator*. They may also be sent to other governing bodies or published in other public venues as appropriate. The purpose is to give denturists insight into the type of complaints received by the College, the inquiry process, and how the *Act*, regulations and bylaws apply.