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A Complaint Has Been Made About You to the Royal College of Dental Surgeons of Ontario: What You Need to Know

Here is an experience that can happen to any dentist. You look through your daily mail and see a letter bearing the mark of your regulator, the Royal College of Dental Surgeons of Ontario (RCDSO), stamped “Personal and Confidential.” You open the letter to discover that a complaint has been made against you in relation to your professional conduct. It’s likely that you are unfamiliar with the process and understandably concerned. The letter encloses the initial complaint letter and requests that within a short period of time, usually 35 days, you provide a written response to the allegations made against you.

The letter also provides you with some initial information about what can happen as a result of the complaint. It informs you that once your written response has been submitted and an investigation into the matter has been completed, the entire file will be provided to the Inquiries, Complaints and Reports Committee (ICRC), which is tasked with objectively reviewing the file and determining the most appropriate course of action.

You are informed that the ICRC has the power to: refer the matter to the Discipline Committee; inquire into your professional capacity; administer a verbal caution before the ICRC; or take any other appropriate action (which may mean no action at all).

Under section 25(1) of the *Health Professions Procedural Code*, the College must investigate and act on all complaints, subject to very limited exceptions. This means that once you have received this letter, regardless of how trivial you think the complaint may be, and no matter how much you disagree, action must be taken. You must prepare a response. Beyond simply the time and effort required to respond appropriately, the process that you are now engaged in and the prospect of professional consequences can put great strain on you and your family. In these circumstances, it is prudent to consider contacting legal counsel who can guide you through this unfamiliar territory.

Each case is different, and these differences should be considered in the course of preparing a written response. Factors such as the complexity of the care provided, how long ago the care was provided, and the potential that a lawsuit will be commenced in relation to the same care, are all matters that may complicate the preparation of a written response. It is often helpful for the written response to include a clear and factual chronology of the events in question.

You will likely not have an opportunity to explain in person to the ICRC your decision-making process or the care that you provided to the complainant. In most cases, your written response is your only chance to make submissions to the ICRC. For this reason, it is generally important to ensure that each and every one of the complainant’s concerns has been addressed in your response. If the ICRC reviews your response and notes that you have failed to address particular complaints, they may not grant you an opportunity to respond before disposing of the matter.

Where there is merit to a complaint, it may be appropriate to demonstrate in your written response that you have taken appropriate action to ensure that all issues of concern have been corrected. In certain circumstances, demonstrating insight into any possible failings typically reflects well on you and gives the ICRC the confidence that you genuinely seek to improve your practise.

In certain circumstances, where the investigator believes that a complaint may be able to be resolved without providing the ICRC with written submissions, the investigator may wish to have a verbal conversation with both the complainant and the dentist. It is important to co-operate with the investigator. Everything provided to the investigator is recorded and ultimately submitted to the ICRC in the investigator’s report.

Once your written response has been finalized, you should submit it to the investigator. Along with your response, you should attach all the original records,

assuming consent has been provided by the patient. These records include the patient's charts, treatment plans, radiographs, ledger cards, etc. If you maintain electronic records, you should attach to your response a USB key with the complete records. You should also provide the regulator with your financial information pertaining to the patient, including the financial ledger, receipts and insurance statements. Even if the ICRC determines that the care provided to the patient was appropriate, it may still evaluate the quality of your records. It is important that your records strive to be in compliance with the Dental Recordkeeping Guideline. Whether your care was appropriate or not, you will have to answer to the quality of your records.

Recently, there has been a movement towards making any regulatory findings more transparent. As a result, the RCDSO has changed what is included on the Public Register when findings are made against a dentist. Whenever the ICRC refers a complaint to Discipline, orders a caution against a dentist, or orders that the dentist complete a Specified Continuing Education or Remediation Program (SCERP), this information will be posted on the public profile of that dentist.

Some relatively minor complaints may be referred to the RCDSO's Alternative Dispute Resolution (ADR) process. This typically happens early in the complaint investigation process. You and the complainant must both consent to ADR. If both parties agree, the RCDSO will appoint a facilitator who will attempt to mediate a resolution of the complaint. Any resolution achieved through ADR must still be ratified by the ICRC.

With a serious complaint, the ICRC could impose an "interim order," which puts restrictions on your practice,

including a license suspension, while the ICRC investigates the complaint. A serious complaint may also cause the Registrar to appoint an investigator under section 75 of the *Health Professions Procedural Code*; this investigator has broader powers to gather information than a complaint investigator.

Both you and the complainant have the opportunity to appeal any decision of the ICRC to the Health Professions Appeal and Review Board (HPARB). When a decision is appealed to the HPARB, it will consider if the investigation undertaken by the RCDSO was adequate and whether the decision made by the ICRC was reasonable. As part of its review, HPARB will have access to all the documents and information gathered by the RCDSO at the complaint investigation stage, and this information will be disclosed to both you and the complainant.

The fact is that a complaint made against you can carry significant consequences. Retaining specialized legal counsel can assist you in preparing your written response and guide you through the process. Complaints to the RCDSO are not uncommon, and they can happen to anyone. A failure to take these complaints seriously can have a negative impact on a dentist, so take the matter seriously, and respond appropriately. 



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