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COMPLAINTS PROCESS INFORMATION SHEET

RECEIPT OF A COMPLAINT:

Complaints received by CLPNA are processed by the framework outlined in s. 54 of the Health Professions Act.

Health Professions Act (HPA):

54(1) A person who makes a complaint to a complaints director regarding a regulated member or a former member must do so in writing and must sign the written complaint.

(2) A complaint under subsection (1) is not affected by the person about whom the complaint is made ceasing to be a regulated member before the proceedings with respect to the complaint are completed.

(3) Despite subsection (1), a complaint cannot be made about a former member if 2 years have elapsed since the person became a former member.

(4) Despite subsection (1), a complaint about a former member who was a member under a former Act but has not been a regulated member under this Act may be made under this Part only if discipline proceedings under the former Act could be commenced if that Act were still in force.

(5) If information, a notice or non-compliance is treated as a complaint under section 56 and acted on under section 55, the information, notice or non-compliance is deemed to be a complaint.

The person making the complaint (Complainant), the employer (if not the Complainant), and the Investigated Member will be contacted via telephone by the Complaints Department to review the complaint and the complaint process.

Within 30 days of receipt of the complaint, the parties will receive an initial letter from the Complaints Director, confirming receipt and advising of the investigation into the matter as per s. 55(1) of the HPA.

55(1) Within 30 days after being given a complaint or treating information as a complaint, the complaints director must give notice to the complainant of the action taken with respect to it.

The Investigated Member will receive a copy of the complaint letter. The Investigated Member is entitled to be represented by legal counsel, a union representative, or an agent of their choice.

SUSPENSIONS, CONDITIONS, RESTRICTIONS

Section 65 of the HPA provides that the Complaints Director may make a recommendation to the Executive Officer of the CLPNA that the Investigated Member's practice permit be suspended or that conditions or restrictions be imposed on an Investigated Member's practice permit pending completion of the complaints process. This would occur when there is a serious concern regarding the Investigated Member's competence or ethics and there is a significant risk to the public if the investigated person continues to practice.

65(1) On the recommendation of the complaints director or the hearing tribunal, a person or committee designated by the council may at any time after a complaint is made until a hearing tribunal makes an order under section 82

(a) impose conditions on an investigated person's practice permit generally or with respect to any area of the

practice of that regulated profession, including the condition that the investigated person

- (i) practice under supervision, or
 - (ii) practice with one or more other regulated members,
- (b) suspend the practice permit of an investigated person,

until the completion of proceedings under this Part.

INVESTIGATION:

The Complainant and/or Employer and the Investigated Member are given notification, as per s. 61(1) of who will conduct the investigation.

61(1) If an investigation is to be conducted under this Part, the complaints director

- (a) must give the complainant the name of the investigator, and
- (b) must, unless it would significantly harm the investigation, give the investigated person the name of the investigator and reasonable particulars of the complaint to be investigated.

The Complaints Director can investigate the matter or delegate the investigation to the Complaints Consultant or to an external investigator. The Investigations are conducted in an objective manner; the Investigators are fact finder. External investigators are not decision makers. Nor do they make any recommendations regarding the outcome of the complaint.

During the investigation process, the Complainant and/or Employer and the Investigated Member will be interviewed by the appointed Investigator. There may be witnesses with relevant information concerning the complaint and they may be interviewed.

CLPNA has the legal authority, under s. 63 of the HPA, to collect any information and or relevant documents to the investigation which may include personal information and medical documentation.

63(1) An investigator

- (a) may, at any reasonable time,
 - (i) require any person to answer any relevant questions and direct the person to answer the questions under oath, and
 - (ii) require any person to give to the investigator any document, substance or thing relevant to the investigation that the person possesses or that is under the control of the person,
- (b) may require any person to give up possession of any document described in clause (a) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time of being given it but must return it no later than after a hearing is completed,
- (c) may require any person to give up possession of any substance and thing described in clause (a) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if appropriate and possible, within a reasonable time of being given it but must return it, if appropriate and possible, no later than after a hearing is completed, and
- (d) subject to subsection (8), at any reasonable time enter and inspect any building where a regulated member provides professional services, but if the building contains a private dwelling place may not enter any part of the building designed to be used as and is being used as a permanent or temporary private dwelling place.

Our investigators have “Trauma Informed Sexual Assault Training”. The investigators will take all measures to interview the victim in a sexual abuse / sexual misconduct complaint. Victims have the opportunity to submit victim impact statements during both the interview process and the hearing process.

The Investigation is not limited to the information in the Complainant’s letter. The scope of the investigation may

increase to include other conduct matters that were not presented in the initial complaint letter, but were identified during the investigation. The Investigator will interview the complainant, any witnesses deemed necessary, and the Investigated Member.

Once the investigation is complete, a written investigation report is submitted to the Complaints Director for review. The Complaints Director will consider if there is sufficient evidence of “unprofessional conduct” as it is defined in Section 1(1)(pp) of the *HPA*. The evidence will be reviewed to determine if the conduct was unprofessional by the display of a lack of knowledge or skill or judgment in the provision of professional services, was in contravention of the *HPA*, the CLPNA Code of Ethics or Standards of Practice, other relevant legislation; or engaged in conduct that harms the integrity of the regulated profession. The Complaints Director will determine how to resolve the complaint.

FURTHER INVESTIGATION OR EXPERT OPINION:

If the Complaints Director believes additional information is necessary, the Complaints Director will advise the investigator what additional information is required before the investigation can be concluded.

The Complaints Director may determine an expert opinion is required before the Complaints Director can make a determination. The Complaints Director may request an expert to assess and prepare a written report on the subject matter of the complaint or matters arising from the investigation of the complaint.

(2) If, on reviewing a report made under this section, the complaints director determines that the report is not complete or that the investigation was not properly conducted, the complaints director

- (a) must direct the investigator, or appoint another investigator, to undertake further investigation and make a report and submit it to the complaints director, and
- (b) may request an expert to assess and prepare a written report on the subject-matter of the complaint or matters arising from the investigation of the complaint.

POSSIBLE RESOLUTIONS OF A COMPLAINT:

A resolution/decision is required on every complaint received. When the Complaints Director receives an investigation report, the information gathered in the report and in the complaint letter is carefully and objectively analyzed to determine the best outcome is achieved in the interest of the public. There are a number of ways the Complaints Director will do this.

- Conflict Resolution – with the consent of the Complaints Director, the Complainant and the Investigated Member, attempt to resolve the complaint. Examples of a consent resolution could include an Agreement & Undertaking, Mediation, or Coaching.
- Referral to a Disciplinary Hearing – A Disciplinary Hearing is a formal legal process used to resolve complaints. (See Hearings section)
- Dismissal – If the Complaints Director determines the complaint is trivial or vexatious or if there is insufficient or no evidence of unprofessional conduct, the complaint is dismissed. The Complainant and Investigated Member are provided with written reasons for the decision. The Complainant has the right to appeal the decision. (See Complaint Review Committee section).