



SCOPE OF INVESTIGATIONS

An Investigator may request any person(s) to produce any models, charts, documents, papers, notes, records, radiographs or other materials or things in the person's possession or under the person's control and to attend the preliminary investigation.

An investigator may investigate any other matter regarding the investigated member that arises in the course of the investigation.

The Investigator shall keep all personal notes of an investigation until all actions pertaining to the complaint have been concluded. All evidence collected is forwarded to CLPNA with the Investigation Report.

In accordance with sections 35(1)(p) and 35(4) of the Health Information Act and pursuant to section 63(1) of the *Health Professions Act (HPA)*, the Investigator can request the disclosure of the following information and documents:

- The involved patient's relevant medical documents including charts, progress notes, MAR's, narcotic records, medical diagnosis, flow sheets and treatment records.
- All medical documents of the LPN's assigned patients and the audited charts/progress notes.
- Previous documentation concerning counseling/discussion about charting.
- Documented evidence from the involved Physician and Charge Nurse.
- Staff schedules and patient assignment records.
- All notes or statements written by staff and relevant to the issue.
- Any relevant reports or notes made during the investigation and as a result of interviews with staff.
- Any other documents and information deemed relevant during the course of the investigation.

Health Professions Act (HPA):

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.

COOPERATING WITH AN INVESTIGATION

The Investigator will advise members they are required to cooperate with the investigation or a charge of unprofessional conduct in regards to their actions may be made, in writing, to the Complaints Director by the Investigator in accordance with s. 1(1)(pp)(vii)(B) of the HPA.

s. 1(1)(pp)(vii)(B)

1(1) In this Act,

(pp) “unprofessional conduct” means one or more of the following, whether or not it is disgraceful or dishonourable:

(vii) failure or refusal

(B) to comply with a request of or co-operate with an investigator,

There are a number of legal authorities that confirm that a member has an obligation to cooperate with the investigation, even absent a provision in the governing statute requiring cooperation.

If the investigated member refuses to cooperate, the Complaints Director can initiate a separate complaint against the investigated person pursuant to s. 56 of the HPA alleging the failure to cooperate.

56 Despite not receiving a complaint under section 54, but subject to section 54(3) and (4), if the complaints director has reasonable grounds to believe that the conduct of a regulated member or former member constitutes unprofessional conduct, receives a referral under Part 3, Part 3.1, Schedule 7 or Schedule 21, is given notice under section 57, is given information orally or is aware of non-compliance with a direction under section 118, the complaints director may treat the information, notice or non-compliance as a complaint and act on it under section 55.

Alternatively or in addition, the Complaints Director can make an application to the Court of Queen’s Bench, pursuant to s. 63(3), for an order compelling the investigated person to produce documents, substance or things, or to attend before an investigator to answer any relevant decisions.

63(3) The complaints director, on the request of an investigator or without a request if the complaints director is the investigator, may apply to the Court of Queen’s Bench for

(a) an order directing any person

(i) to produce to the investigator any documents, substances or things relevant to the investigation in the person’s possession or under the person’s control,

(ii) to give up possession of any document described in subclause (i) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time after receiving it but return it no later than after a hearing is completed, or

(iii) to give up possession of any substance or thing described in subclause (i) to allow the investigator to take it away, examine it and perform tests on it, in which case the investigator must return it, if possible, within a reasonable time of being given it but return it, if possible, no later than after a hearing is completed;

(b) an order directing any person to attend before the investigator to answer any relevant questions the investigator may have relating to the investigation.

WRITTEN REPORT

The written report of the investigation is prepared and submitted to the Complaints Director for review. The report must be prepared within a reasonable time of concluding the investigation.

The investigation report must be a factual account based on interviews conducted, witness statements and documentation. The investigator must not make a recommendation or express personal opinions regarding the investigation in the investigation report.