

CPSM COMPLAINTS AND INVESTIGATIONS PROCESS FAQS

Note that the process must meet the requirements set out in the Regulated Health Professions Act ("RHPA") in part 8, but that for CPSM, those requirements are modified by part 14 of the RHPA. Part 8 cannot be understood without making the changes to the process for CPSM made in part 14. The [Practice Direction](#) reflects the requirements when these parts are combined.

Q. How do the number of complaints in 2021 compare to other non-pandemic years (2019 or earlier). Is CPSM getting an increased volume of complaints from patients?

We are seeing an increase in the number of complaints received and some of these are directly related to COVID, including problems associated with virtual care. We recognize that some complaints may reflect the psychological fatigue experienced by everyone, including CPSM members and the public.

We acknowledge that physician burnout is an increasing problem and encourage all members to take time to address their own health needs, including the need for rest and rejuvenation. We encourage you to seek out resources available through [Doctors Manitoba](#) if you need help, especially in the context of a CPSM complaint.

Another factor for the increased number of complaints is likely a result of the ability to submit a complaint online on the CPSM website. We are committed to addressing concerns from the public as part of our mandate to assure quality medical care in Manitoba and we see this as a positive step.

Q. Do the recent changes to the process/Practice Direction affect complaints which were already in progress before the changes?

Although CPSM Council approved the new Practice Direction on December 8, 2021, most of the process is prescribed by the RHPA. Many complaints were being processed in a manner very similar to what is now formalized and clearly set out in the Practice Direction. For example, some complaints were dismissed, some were resolved through informal resolution, and death reviews were sent directly to the Investigation Committee for review. The changes have no real impact on complaints and/or investigations already in progress.

Q. After I have submitted my response to a complaint, how long does it take to receive the Complaints Committee decision?

Completing the whole process can take several months. CPSM strives to be efficient without compromising the thoroughness of the review. Serious issues that may pose an immediate risk to the public are prioritized. Your response is sent to the complainant for a reply and comment and they are generally given 30 days to respond. After that, the medical consultant needs to review all the material before deciding if further information is required for the Panel to make a decision. You or your legal counsel should feel free to follow up with us at any time if you are concerned about a delay.

Q. Are the deadlines for responses flexible depending on conditions and circumstantial changes?

If you are the subject of a complaint that has been referred to the Complaints Committee, you are required to provide a written response to address the concern(s). That response is required within 30 days unless the time is abridged or extended by the Assistant Registrar, Investigator or Medical Consultant. Extensions may be granted where circumstances justify an extension, but all requests for extensions must be made before the response is due. If you need more time to respond, you are encouraged to contact CPSM and explain your reasons for the request as early as possible and before the deadline.

Q. Can physicians (other CPSM members) complain about other physicians? If so, what is the process?

Members have a statutory and ethical [duty to report](#) to the Registrar where they have concerns about the care or conduct of another member. This reporting obligation also applies to concerns about another member's ability to practice safely due to a health issue. The Registrar will consider the information and determine if a referral to the Complaints or Investigation Committee, Standards Committee or the Physician Health Program is appropriate. The duty to report is an important part of CPSM members' responsibility in a self-governing profession. Members can also complain about the conduct of another member whose conduct has directly impacted them, such as where a colleague has been abusive or otherwise unprofessional towards them.

The Registrar can be contacted at TheRegistrar@cpsm.mb.ca.

Q. Should I contact the Canadian Medical Protective Association (CMPA) when a complaint against me is filed?

Yes, CPSM encourages you to reach out to CMPA as early in the process as possible. If CMPA does not cover you, you should consider notifying your liability insurer, who may also

assist. Legal counsel provided through these resources is there to assist you during these situations. Reaching out for help is not considered a sign that you have done something wrong. It is a responsible and sensible use of valuable resources available to you.

Q. Are there other avenues other than a complaint that would trigger this process?

In addition to complaints submitted by the public, the Registrar may make a referral to the Complaints or Investigation Committee based on information received from others. For example, this may come from another member based on their duty to report concerns, from third parties such as other health care professionals, regional health authorities, or concerns raised in other CPSM processes.

Likewise, the Registrar may consider that other actions may be more applicable to address the concerns and may refer to the Quality Department for review through a Standards process or the Physician Health Program.

Q. Should I continue seeing the patient who made a complaint against me?

This is a difficult question and depends on the circumstances. A formal complaint can disrupt the physician-patient relationship. CPSM encourages conflict resolution whenever possible, but we recognize that the presence of a complaint may present challenges to optimal care and communication and every situation is different.

Q. Who can find out about a complaint against me?

CPSM does not provide information about a complaint to anyone other than the complainant and the member who is the subject of the complaint or either of those parties' legal representatives unless it is necessary for CPSM's investigation or required by the RHPA. For example, CPSM must provide notice of an interim suspension or conditions imposed on a member during an investigation. This is rarely necessary.

Decisions of the Complaints and Investigations Committees are not made public. Decisions within the past 10 years will be referenced on any Certificate of Professional Conduct (COPC) you require in the future. COPC's must be requested by you and are not generally available to others unless you provide them to others, such as prospective employers or other Colleges if you intend to practice elsewhere.

The only publicly available decisions are where formal discipline is required. These disciplinary actions (censure or an inquiry panel decision following an inquiry) must be made public. Read the full [Publication Policy](#) for more details.

Q. I understand there is a clause about dismissing vexatious or frivolous complaints. Is this true and if so, has it taken effect yet?

Section 17.1. of the Practice Direction states that:

Where the Registrar is satisfied that a complaint is trivial, vexatious and/or that there is insufficient evidence or no evidence of conduct about which a finding could be made under s. 124(2) of the RHPA, the complaint will be dismissed pursuant to s. 92 of the RHPA.

See the Practice Direction for a list of the specific circumstances under which a decision to dismiss may be justified.

CPSM dismissed a small number of complaints in 2021 – 2022.

Q. Does the Complaints or Investigation Committee always send a letter to the member regarding the outcome of a complaint?

Yes, the Complaints Committee decision and reasons are communicated to the CPSM registrant and the complainant in writing.

The member will receive a copy of the Investigator's Report and have a chance to respond before the Investigation Committee discusses it. The Investigation Committee's decision and reasons are recorded in a written Notice of Decision and provided to the CPSM registrant and the complainant.

Q. If the complainant is not satisfied with the Complaints Committee decision and requests referral to the Investigations Committee, does this go through regardless of the type of the complaint?

Yes. As per the legislation, if a complainant is dissatisfied with the outcome from the Complaints Committee, they may request a referral to the Investigation Committee for any reason. Similarly, they can appeal the decision of the Investigation Committee to the Appeal Committee.

Q. Can physicians request that a matter go to the Investigations Committee if they don't like the decision as the complainant can?

No. Physicians cannot request a referral to the Investigations Committee; the RHPA does not provide this option for physicians, nor can they appeal to the Appeal Committee.

Q. Is what the Investigations Committee decides final?

The complainant can appeal the decision to the Appeal Committee.

It is important to note that for most decisions the Investigation Committee can make, a member must agree to any actions considered necessary to resolve the complaint. For example, if the Committee feels that further education is required in a specific area, the member must agree to participate in the education. If conditions on a member's practice are required (such as limits on the number of patients seen or a chaperone being present for certain examinations), these must also be agreed to by the member.

On the other hand, members do not need to agree to criticisms made or advice given by the Investigation Committee, nor do they need to agree to a matter being referred to the Inquiry Committee. As per the RHPA, matters can be referred to the Inquiry Committee by the Investigation Committee. This happens when a matter is serious enough to warrant charges and formal disciplinary action.

The CPSM member or CPSM can appeal an Inquiry Panel decision to the Manitoba Court of Appeal.

Q. Do these changes have implications for the inquiry panel process?

The Inquiry Panel process has its own process as detailed in the RHPA and there are no changes to that process.

Q. Can we claim credits for attending/watching this webinar?

This webinar is not eligible for credits.