

## CONFLICT RESOLUTION

### **8.1 Conflict Resolution Committee**

The membership shall elect a Conflict Resolution Committee to deal with any complaints brought to the attention of the PEIMTA.

### **8.2 Formal Resolution Procedure**

(1) No complaint will be investigated nor Discipline imposed if the complaint is not made in writing within 12 months of the occurrence.

(2) To initiate a formal resolution, the PEIMTA shall send by registered mail to the Complainant, within 10 days of the request:

- (a) A Complaint Investigation form;
- (b) A written explanation of the options available for addressing the complaint and the implications of these options;
- (c) A consent document, which seeks authorization from the Complainant to proceed with Investigation/adjudication of the complaint.
- (d) Upon receiving a written complaint, the PEIMTA shall:
  - (i) Create a complaint Investigation file;
  - (ii) Send a letter to the Member who is subject to the complaint, advising him/her of the complaint and;
  - (iii) Request a written explanation from that Member;
  - (iv) Advise the Member that his/her written explanation may be used in subsequent proceedings against him/her, and;
  - (v) Advise the Member of his/her rights in the PEIMTA.
- (e) Refer the file to the Conflict Resolution Committee, who shall give priority to the matter and process the file expeditiously.

### **8.3 Investigation Procedures**

(1) The Conflict Resolution committee shall meet within 14 days of receipt of the file.

(2) The Conflict Resolution Committee may authorize a minimum of two of the Committee Members to form a team to interview both the Complainant and the Member who is subject to the complaint. This team shall review all relevant records and inspect the Member's workplace if deemed necessary.

(3) With the Complainant's consent, the Conflict Resolution Committee may examine any confidential information and/or medical records of the Complainant related to the alleged offence.

(4) The Conflict Resolution Committee, after investigating a complaint; considering the submissions of the Member and the Complainant; and considering or making reasonable efforts to consider all records and documents it considers as relevant to the complaint, shall determine whether:

- (a) The matter should be referred for a hearing;
- (b) The matter should be referred to an appointed facilitator to mediate between the Complainant and Member; or
- (c) The complaint should not be pursued.

#### **8.4 Mediation**

(1) Where the Conflict Resolution Committee believes that a complaint can be resolved through mediation and the Member and Complainant agree to participate in such a process, the approved facilitator may meet with the Complainant and Member, and attempt to resolve the dispute to the satisfaction of both parties.

(2) The approved facilitator may not engage in any subsequent proceedings or serve on the Conflict Resolution Committee or Appeal Committee if he/she participates in mediation for that file.

(3) All communications during the mediation are privileged and shall not be admitted as evidence at any subsequent proceedings.

(4) If the dispute between the Member and the Complainant is not resolved by mediation, the Conflict Resolution Committee may exercise any of the decision-making powers set out below.

#### **8.5 Conflict Resolution Committee Recommendation Guidelines**

The Conflict Resolution Committee may recommend to the Board any one or more of the following actions:

(1) Take no action with respect to the complaint. The Committee shall give the Complainant and the Member notice that it intends to take no action with respect to the complaint if:

- (a) The Committee considers a complaint to be frivolous, vexatious, made in bad faith or otherwise an abuse of process;
- (b) The Committee is of the opinion that the Member's conduct meets acceptable standards of practice, code of ethics and scope of practice;
- (c) If the Conflict Resolution Committee decides to take no action, the Complainant has the right to make written submissions to the Conflict Resolution Committee appealing the decision, within 30 days after receiving the notice.

(2) Refer the file to the Conflict Resolution Committee for:

- (a) Further investigation; or
- (b) Referral to a Hearing.

(3) Recommend that the Board (or Executive Committee) make an interim order suspending or imposing terms, conditions or limitations on a Member's practice if:

- (a) The file is referred to the Conflict Resolution Committee, and;
- (b) The Conflict Resolution Committee is of the opinion that the alleged conduct of the Member exposes or is likely to expose his or her patient to harm or injury. Such an order continues to stay in force until the Conflict Resolution Committee disposes of the matter.

(4) Where there is danger to the public, which cannot await a Disciplinary hearing, refer the Member to the Executive Committee for immediate disciplinary measures.

#### **8.6 Recommendation Process**

(1) All Conflict Resolution Committee recommendations must be presented to the Board in a written report, at the first Director's meeting subsequent to the completion of the Conflict Resolution Committee's investigation.

- (2) The Conflict Resolution Committee recommendation(s) must be documented in Board minutes, as must the Board's decision to accept or reject the recommendation(s).
- (3) Upon the Board's acceptance or rejection of recommendation(s) from the Conflict Resolution Committee, the Conflict Resolution Committee shall provide the Member and the Complainant with a copy of the Board's decision.
- (4) Failure of the Member to comply with the Board approved recommendation(s), as per Section 8.5 (3) and 8.5 (4) in which the Board or Executive Committee does not suspend the Member will result in suspension of the Member pending decisions of the Conflict Resolution Committee, or until his/her co-operation is obtained.
- (5) Where the Board accepts the recommendation that the file be referred to the Conflict Resolution Committee, the Conflict Resolution Committee shall submit a statement informing of the charges or issues that will be dealt with, to both the Complainant and the Member.
- (6) The Conflict Resolution Committee Chair shall advise the Complainant and the Member of any rights to request an Appeal to the Conflict Resolution Committee (refer to section 8.11).

### **8.7 Hearing Procedures**

- (1) When the Conflict Resolution Committee determines that a hearing is required, the Chairperson shall inform both the Complainant and the Member of the following by registered mail, no later than 28 days prior to the date of the hearing:
  - (a) A hearing has been deemed necessary;
  - (b) The date, time and location of the hearing;
  - (c) A list of the charge(s) or dispute(s) to be heard;
  - (d) That both parties have the right to be heard in person;
  - (e) That each party may be represented by legal counsel at their own expense;
  - (f) That each party may also be accompanied by any other person of the general public, or a PEIMTA Member in good standing;
  - (g) Provided with a copy of the Conflict Resolution Bylaws;
  - (h) Invite written submissions of any additional information or arguments relevant to the deliberation of the Committee, to be received no later than 7 days prior to the hearing;
  - (i) Request that both parties must confirm their attendance or non-attendance for the hearing, at least 7 days before the date of the hearing.
- (2) On the day of the hearing, when necessary, the Conflict Resolution Committee, the Complainant or his/her legal representative and the Member or his/her legal representative, have full right to:
  - (a) To examine, cross-examine and re-examine all witness testimony, except in cases where there is a reasonable belief by the Conflict Resolution Committee that the Complainant or Member would suffer emotionally from a face-to-face meeting with the other. In this case, the Complainant's or Member's testimony at the hearing may be done by teleconference;
  - (b) To present evidence in defense and reply.
- (3) When a Member fails to attend the hearing, the Conflict Resolution Committee may proceed in his or her absence.

- (4) When the Complainant fails to attend the hearing and does not provide a just reason, the Conflict Resolution Committee may interpret this as a lack of commitment and may have cause to dismiss the complaint.
- (5) If, during the course of a hearing, the evidence shows that the accused may be guilty of misconduct different from, or in addition to, any misconduct specified in the charge, the Conflict Resolution Committee shall adjourn the hearing for any period that the Committee considers sufficient, no longer than 45 days. This is to give the Member an opportunity to prepare a defense to the amended charge(s), unless the Member consents to continue the hearing.
- (6) The Conflict Resolution Committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence, and testimony may be given unsworn.
- (7) The Conflict Resolution Committee may consider its own written report of the investigation process in whole or in part.
- (8) The Conflict Resolution Committee shall conduct the hearing in camera (in private).
- (9) The deliberations of the Conflict Resolution Committee shall be conducted in private. No person who is not a Member of the Committee shall be present.
- (10) The Conflict Resolution Committee shall give the findings of the hearing and provide reasons for its decisions and for any sanction ordered. This Hearing Report shall be sent to the Board for execution, no longer than 7 days after the hearing.
- (11) Copies of the Hearing Report shall be provided to both the Complainant and the Member, no longer than 14 days after the hearing.
- (12) The Conflict Resolution Committee shall advise the Complainant and the Member of any rights to request an Appeal.

### **8.8 Hearing Report Guidelines**

- (1) In making any order the Conflict Resolution Committee shall take into consideration:
  - (a) The experience of the person(s) involved;
  - (b) The nature of the misconduct;
  - (c) Any information which, in the opinion of the Committee is reliable and relevant to the determination of an appropriate order, including:
    - (i) Previous misconduct of the Member, if it was subject to disciplinary action;
    - (ii) The character of the Member;
    - (iv) Any circumstances provided by the Member in mitigation.
- (2) The Conflict Resolution Committee may make any one or more of the following orders:
  - (a) Dismiss the complaint;
  - (b) Reprimand the Member, with warning as to his/her future conduct;
  - (c) Specify conditions under which the Member may continue to practice, including some or all of the following:
    - (i) Discontinue use of specific treatment procedures or modalities;
    - (ii) Practice only under the supervision of one or more Members, the Conflict Resolution Committee may specify;

- (iii) Successfully complete any upgrading, retraining or education that the Conflict Resolution Committee may specify, within any time period the Conflict Resolution Committee may specify;
  - (iv) Obtain counselling, medical or other relevant treatment the Conflict Resolution Committee may specify, within any time period the Conflict Resolution Committee may specify;
  - (v) Any other reasonable condition the Conflict Resolution Committee considers fair;
- (d) Suspend the Member for a defined period of time. If the Member is suspended, this shall be noted in the Membership register and Membership rights and privileges shall be removed during the period of suspension;
- (e) Expel the Member from the PEIMTA and so order the following:
- (i) Notice shall be sent to all Members of the PEIMTA, relevant health care Corporations and relevant intergovernmental agencies;
  - (ii) The Member's name and license number shall be removed from the Membership register and his/her Membership rights and privileges shall be cancelled;
  - (iii) The Member shall be required to return his/her Certificate of Registration.
  - (iv) The Member is ineligible to serve in any function within the PEIMTA or attend any PEIMTA activity.

(3) In cases where the Member has been found to have committed an act of professional misconduct or is found incompetent, he/she may be ordered to pay all or part of the PEIMTA's costs incurred in investigating the matter and conducting the hearing, to a limit of \$1500.

(4) Where there is evidence, which leads the Conflict Resolution Committee to the conclusion that there is danger to the public, or danger to the reputation of the profession or the PEIMTA, the Member shall be immediately suspended until the matter is resolved.

(5) The Conflict Resolution Committee may also order a second visit by Members of the Conflict Resolution Committee after a lapse of a specific period of time, to insure that the Conflict Resolution Committee's requirements have been implemented.

(6) Failure to comply with the requirements of the Conflict Resolution Committee will result in suspension of the Member until his/her compliance is obtained.

(7) If there are any amendments to the Conflict Resolution Committee's orders or recommendations, a written report must be sent to the Board.

### **8.9 Deference to Other Authorities**

Where the Conflict Resolution Committee believes that the Member whose conduct is being investigated may be guilty of a criminal offence, the matter shall be referred to an appropriate authority.

### **8.10 Dispersal of Evidence**

All original documents and items put into evidence at the hearing shall be returned by the Conflict Resolution Committee to the person who produced them, on request, within a reasonable time after the hearing has concluded, with the PEIMTA retaining the right to retain copies of any relevant documentation.

### **8.11 Appeal Process**

(1) The Member, the Complainant and the Board have the right to Appeal decisions or any order (including the nature of the Discipline) of the Conflict Resolution Committee, by serving a written notice of Appeal to the Appeal Committee within 14 days of receipt of the decision or order where:

- (a) The Conflict Resolution Committee has found the Member guilty of misconduct; and
- (b) The Member is subject to an order imposed by the Conflict Resolution Committee or the Board;
- (c) The Appellant can demonstrate just cause for Appeal, provided that:
  - (i) the Appeal involves a question of jurisdiction; or
  - (ii) if it is alleged that the Conflict Resolution Committee erred in its interpretation of the charges, the policies or Bylaws of the PEIMTA, or in the application of the imposed Discipline.

(2) The written notice shall state the grounds of Appeal.

(3) An administration fee of \$50 must accompany any formal request for an Appeal.

(4) The Appeal Committee shall review all aspects of the file.

(5) On hearing an appeal the Appeal Committee may:

- (a) Dismiss the Appeal;
- (b) Quash the finding of guilt;
- (c) Increase or decrease any penalty imposed by the Conflict Resolution Committee or Board.

(6) The costs of both the appellant and the PEIMTA associated with an unsuccessful Appeal shall be the responsibility of the appellant. In the case of a successful Appeal, the PEIMTA will be responsible for the costs incurred by the appellant as part of the Appeal process, up to a limit of \$1500.

### **8.12 Legal Recourse**

If, on an appeal application the Appeal Committee refuses to reinstate a person as a Member, the person, within 30 days after the date of the order, may appeal the order of the Appeal Committee to a Judge of the Court, and the Judge may allow or disallow the Appeal. The decision of the Court will stand.

### **8.13 Reinstatement**

(1) A person who has been expelled may apply to the Board for reinstatement. Such an application must state reasons for reinstatement and any information that justifies reasons for reinstatement.

(2) Subject to the Bylaws, on receipt of a reinstatement request, the Board shall review the application and, if in the opinion of the Board the application discloses information that may justify reinstatement, the Board may investigate the application by taking any steps it considers necessary.

(3) On completion of its review, the Board shall:

- (a) Where it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, direct that the person be reinstated under any terms and conditions that the Board considers appropriate; or
- (b) Refuse to reinstate the person, with reasons for refusal given in writing.

- (c) Notify the application of its decision within 21 days.
- (4) A person whose application for reinstatement is refused may make a second applicant for reinstatement, based on new information not presented in the first request, any time 30 days after the completion of the initial reinstatement review.
- (5) Any person whose application for reinstatement is refused or whose Appeal of a refusal is refused may make another application for reinstatement, based on new information, after a period of two years from the date of the last reinstatement Appeal.

#### **8.14 Conflict Of Interest or Bias**

- (1) In the event that any Member of the Conflict Resolution or Appeal Committees has a conflict of interest or is biased, that person shall declare the conflict or bias and the Chairperson of that Committee shall appoint, upon Board approval, a replacement.
- (2) In the event of a conflict of interest on the part of a Board Member, that Director shall not participate in any discussion or action of the Board related to this file.
- (3) No Director shall participate in the hearing of an Appeal if:
  - (a) The Director has a conflict of interest or is biased;
  - (b) There is any reasonable basis on which it may appear that the Director may have a conflict of interest or may be biased;
  - (c) The Director has participated in the process prior to the hearing of the Appeal in a way that is deemed to create the appearance of a bias.

#### **8.15 Records and Use of Decisions**

- (1)The PEIMTA shall maintain a record of all decisions of the Conflict Resolution Committee, and of all decisions of the Board and Appeal Committee.
- (2)The Conflict Resolution Committee and Board may consider the decisions of previous Conflict Resolution Committees and Boards, but are not bound by the precedent.
- (3)Decisions of Conflict Resolution Committee and decisions of the Appeal Committee are matters of public interest and shall be publicly available.
- (4)If the Conflict Resolution Committee or Board decides that making the decision publicly available will unduly violate the privacy of any person, the Committee or Board may direct that the decision or part of the decision should be kept confidential.