

# Investigations of Members

## How they get started



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*Many dietitians have asked the College, "How does an investigation into a member's conduct get started and what does the process entail?" Investigations can be initiated in two ways: 1) by the Complaints Committee following a complaint to the College about a member and 2) by the Registrar & Executive Director (ED) when she receives information through a mandatory report or other means and as a result forms reasonable grounds to suspect a member has committed an act of professional misconduct, is incompetent or may be incapacitated.*

### 1. THE COMPLAINTS INVESTIGATION

When the College receives a formal complaint, by law, it must be investigated by its Complaints Committee. Complaints come from a variety of sources including clients, employers and colleagues. They must be in writing or in some other permanent media such as a tape, film or disc.

In all cases, the process for conducting an investigation is focused on being fair. This includes giving a Member the opportunity to address all concerns regarding the complaint. The College will notify the Member of the complaint and provide them with a copy. Members then have thirty days to make a written submission with their view of the complaint. At this point, members may choose to retain legal counsel to assist them with writing their submission. Legal counsel is available to some dietitians through their professional association, employer or some other form of legal liability protection.

Once the Member's submission is received at the College, it is shared with the Complainant who now has an opportunity to respond in writing to the Member's submission. In some cases, there may be a stark contrast in the recollection of the facts between the Complainant and the Member, while in other cases the two may agree on the facts but differ in their interpretation. The purpose of this written exchange is to ensure that both the dietitian and the Complainant have a fair opportunity to learn about and understand each others position. This often results in some insight being gained on both sides and, in some cases, may lead to a resolution of the complaint.

### THE COMPLAINTS COMMITTEE INVESTIGATES

Once the exchange of correspondence has been completed, the complaint and the submissions will be reviewed by the College's Complaints Committee. The Committee is made up of Members of the profession as well as Members of the public who are appointed by the lieutenant governor of the province.

In many cases, the Complaints Committee makes a decision based on the exchange of submissions described earlier. However, there are times when the committee needs more information and will ask the Registrar & ED to appoint an investigator before making a decision.

The investigator will gather information such as clinical records or other documents relevant to the case and will conduct interviews with the Complainant, witnesses and the Member to clarify issues in the complaint. Investigators have "all the powers of a commission under Part II of the Public Inquiries Act." No one can obstruct an investigator, withhold or conceal information relevant to an investigation. This means that investigators may enter and search a member's workplace at any reasonable time and, if necessary, may obtain a search warrant to search a place where information relevant to the investigation may be located. They have the authority to copy all documents or objects relevant to a case. If it is not possible to have copies, they may remove originals as evidence for the purposes of the investigation and return them at a later date. (RHPA 1991, c 18, Sched 2, s76 to 78).

The investigator will submit a report presenting the information in a neutral way, without making judgements and avoiding all personal opinions. With this additional information, the Complaints Committee will make a final decision which is shared with the Complainant and the Member. The decision will include the outcome, the Committees' rationale for their decision and will be based on one of the following options:

- **Take no further action.** When the evidence does not appear to demonstrate any misconduct, incapacity or incompetence, the committee may decide to take no further action.
- **Issue a Caution.** Committees sometimes have concerns about a Member's conduct or practice and, in these circumstances, may issue a Caution to the Member. Cautions may be presented in writing or in person and are designed to inform the Member of what is expected as the Member moves forward in her or his practice.

- **Request a Voluntary Undertaking.** Requesting that the Member enter a voluntary undertaking, to address issues identified by the Committee is another option that is sometimes pursued by the Committee. These agreements may include such things as participation in supervision, peer consultation or other educational activities. The Committee will suggest this approach typically as an alternative to a Discipline referral.
- **Refer the matter to the Discipline Committee along with specified allegations.** When the Committee has serious concerns about the member's practice and believes that there is significant evidence of incompetence or professional misconduct, the matter is referred to the College's Discipline Committee for a hearing.
- **Refer the matter to the Executive Committee.** If the Committee believes that the Member may be suffering from a condition or disorder such as mental or physical illness, which is preventing the Member from practicing the profession safely, the matter is referred to the Executive Committee where consideration may be given to initiating incapacity proceedings for fitness to practise.

## 2. AN INVESTIGATION BY THE REGISTRAR & ED

When the Registrar & ED has reasonable grounds for believing that a Member has committed an act of professional misconduct, is incompetent, or is incapacitated she will seek approval for an investigation from the Executive Committee of the College. The information referred to the Executive committee for investigation is often received through reports made to the College by employers when they terminate an RD's employment or by an RD who has concerns about the competence or the conduct of another RD. The Registrar & ED can also make a report to the Executive Committee for non-compliance with the requirements of the QA program or non-compliance with a formal undertaking between the College and the member.

In the Registrar & ED's investigation, there is no complainant and the exercise of exchanging submissions that occurs at the outset of a complaint investigation does not occur. Instead, the Member is provided with the issues and given an opportunity to respond in writing. The information gathered by the investigator is done in the same way as a complaints investigation and the resulting report is provided to the Executive Committee for decision. The options available to the Executive Committee are similar to those available to the Complaints Committee.

In all investigations, either initiated by the Complaints Committee or by the Registrar & ED, the College must follow legal procedures. If a member or a complainant is not satisfied with the results of an investigation, they may appeal a College decision through the Health Professions Appeal and Review Board. The purpose of these procedures is to ensure that all involved in an investigation process feel that the outcome was reached through a fair, consistent and unbiased approach.

## Discipline Hearing Summary

March 17, 2008

**Andrea Corbett RD**  
**Ottawa**

**Misrepresentation of  
Registration and  
Practising Under  
Suspension**

Ms. Corbett was referred to discipline by the Executive Committee for conduct alleged that, during her suspension for non-payment of her membership fees, Ms. Corbett practised as a Registered Dietitian, using the RD designation and the dietitian title. She also allegedly provided a falsified pocket certificate of registration to her employer (the expiry date had been changed from 2006 to 2007). The alleged conduct occurred in February to April of 2007.

At the hearing before the Discipline Committee, Ms. Corbett and the College made a joint submission acknowledging that this conduct was unprofessional and jointly requesting an order. The order requested by both parties was that Ms. Corbett appear before the Discipline Committee to be reprimanded; that she have terms, conditions and limitations imposed on her certificate of registration requiring her to promptly renew her registration each year; and that Ms. Corbett pay the College \$3000 towards its costs and expenses.

Several mitigating factors were presented to the Discipline Committee including that she acknowledged her conduct immediately, cooperated fully with the investigation, was undergoing significant personal stress at the time related to the health of a close family member, that she was further under stress because her bank account had been the subject of unauthorized withdrawals, that she provided the falsified pocket certificate of registration in the context of her employer going through a Ministry audit and that Ms. Corbett had not been the subject of any previous proceedings.

The Discipline Committee accepted the joint submission.