



# Health care complaints

If you receive poor treatment by a doctor, nurse, dentist, psychologist or other health care professional, you can make a complaint to the health care college that they are registered with. This booklet explains how to make a complaint.



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## College Complaints

If you have a complaint about a health care professional, you can make a complaint to the medical college that regulates the person's profession. The medical college will investigate your complaint and might try to resolve it if they agree with you that the health care professional did something wrong. If they conclude that the health care professional acted appropriately, they will dismiss your complaint. If you disagree with the college's decision, you can ask for a review by the Health Professions Review Board.

### Who can I complain about?

You can follow the process in this booklet to make a complaint to a medical college about doctors, specialized doctors (such as cardiologists and psychiatrists), psychologists, nurses, physiotherapists, opticians, pharmacists, dentists, chiropractors, dental hygienists, dental technicians, denturists, dieticians, massage therapists, midwives, naturopaths, occupational therapists, and acupuncturists.

Your complaint has to be about a specific person, rather than health services in general at the institution. If you have a complaint about more than one person, you will need to submit a separate complaint for each person you are complaining about.

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## What can I complain about?

You can complain about these kinds of things:

- inadequate treatment or care of a medical condition;
- incompetent, unsafe or substandard practice or procedures;
- doing procedures outside the scope of their practice;
- professional misconduct, sexual misconduct or other inappropriate misconduct;
- breach of ethical duties to the patient; or
- if the health care provider has a physical or mental ailment, an emotional disturbance, or an addiction to drugs or alcohol that impairs their ability to practice their profession.

The main questions are whether the health care professional breached one of their professional or ethical standards, whether they acted unprofessionally, and whether they are competent to practice their health profession.

It is a good idea to get a copy of the practice standards and list of ethical principles that apply to the person's profession. You can ask Prisoners' Legal Services for this information. See which practice and ethical standards they breached. You should use this standard to guide the facts, evidence and allegations you put in your complaint.

Make sure that you are complaining about things that the health care professional has control over. Be clear about what standard they breached in their role as a doctor, nurse, psychologist, or other professional.

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For example:

- If a doctor stopped your medication that helped you control your behaviour and you ended up in the Structured Intervention Unit (SIU) because of this, be clear that you are not complaining about your placement in SIU. The Correctional Service Canada (CSC) makes that decision. You are complaining about the part the doctor had to play. The doctor might have cut you off medication for security reasons, not based on whether the medication is right for you. Or they might have seen that your mental state was getting worse and did not recommend your removal from isolation.
- If you did not get enough pain medication after surgery, think about whether the problem was that the doctor did not prescribe enough pain medication, or that the nurse refused to give you enough of the medication that was prescribed. This will help you to decide whether your complaint should be against the doctor or the nurse.

## **How to start a complaint with a medical college**

It is a good idea to start by talking to the health care professional directly about your concern, or asking Prisoners' Legal Services for support if you have health care needs that are not being met. You might be able to resolve your issue without making a complaint.

The complaints process can take a very long time and there is no guarantee that the medical college will agree with you.

If you cannot resolve the issue with the health care professional directly or you want to complain about something that happened in the past, you can start a complaint by writing a letter to their

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medical college.

You can send your complaint letter about the following types of health care professionals to the following medical colleges:

- **Doctors, psychiatrists, and other specialties** – to the College of Physicians and Surgeons of BC
- **Psychologists** – to the College of Psychologists of BC
- **Nurses** – to the College of Nursing Professionals of BC
- **Physiotherapists** – to the College of Physical Therapists of BC
- **Dentists** – to the College of Dental Surgeons of BC
- **Opticians** – to the College of Opticians of BC

Contact Prisoners' Legal Services or the appropriate medical college to ask for information about where to send your complaint letter.

Prisoners' Legal Services can send you the following:

- the information on the college's website about their complaints process;
- the address where you should send your complaint letter; and
- the practice and ethical standards that apply to the health care professional.

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## How to write your complaint

You should include all of the following in your complaint letter:

- the date, your name, and contact information;
- the name and address of the college you are complaining to;
- the name of the health care professional you are complaining about (the college calls them the “Registrant”);
- all of the relevant facts (what happened);
- a statement about what practice standard or ethical standard the health care professional breached;
- an explanation of how their conduct breached that standard;
- a list of the evidence you are submitting to support the facts and allegations in your letter; and
- if any, a list of witnesses the college can contact about what happened.

Sign your complaint letter.

Say why your complaint is a serious matter and that it should be investigated by the Inquiry Committee. Explain why what the health care professional did is so serious that, if it is proven to be true, it should result in limits on their practice, a suspension of their practice, or cancellation of their registration. Also explain the seriousness of the impact on you.

Here are a few tips to keep in mind while writing your letter:



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- **Point to the specific practice standard or ethical principle that the health care professional breached.**
  - **Include all the relevant facts.** Include your relevant medical history and a history of your meetings with the health care professional. State only what happened, and be careful not to exaggerate.
  - **Be as specific as you can.** Include dates, if possible, specific names of treatments, the number of consultations you had with the health care professional, where you saw them, and any other relevant details. Don't worry if you do not have all this information. Just include what you have.
  - **Do not include your personal opinions.** To keep your letter reliable as a piece of evidence, stick to the facts and to statements about what standard the health care professional breached.
  - **Ask the college to investigate the matter and to speak to witnesses.** Include names and contact details of anyone who can provide more information and confirm the facts in your letter. Ask the college to contact these people.
  - **Do not write anything in your complaint that you don't want the health care professional to see.** The college will share your complaint letter with the health care professional for their response.
  - **Keep your tone and language respectful.** If your tone is too aggressive, there is a risk that the college will find that your complaint is "vexatious" and will dismiss it.  
Even if they don't dismiss it, an aggressive tone will make you seem unreasonable.

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## Submitting evidence to support your case

Send all the evidence you have that supports the facts and allegations in your complaint letter. The college is supposed to do their own investigation, but sometimes they only ask the health care professional for their response and then make a decision. This is also important because if the college concludes that the health care professional did nothing wrong, you will have a stronger case when you apply for a review of the college's decision.

Here are some things that you might want to submit as evidence:

- your medical records (described below);
- signed letters from people who saw what happened and a list of witnesses who can confirm the facts in your letter. Provide their names and contact details, and ask the college to contact them;
- any relevant letters or documents you have from Health Care or from the health care professional;
- any opinions from other health care professionals (more information below);
- prison policies (if relevant);
- a copy of the practice standard and/or ethical standard that the health care professional breached; and
- any other evidence that can confirm the facts in your complaint letter.

If you submit prison policies, you will want to explain how they are relevant to whether the health care professional breached their

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professional standards. For example, a policy that health care professionals should report and recommend removal from isolation if the person's mental health is affected would be relevant to the practice and ethical standard of the health care professional.

The first step is to get copies of all your medical records, including medical records from before you were in the institution if they are relevant. Here are a few places to go:

- do an Access to Information request for any health records held by CSC;
- do a Freedom of Information request for any health records that may be held by the provincial government (for example, Pharmanet records or Mental Health records held by the Ministry of Children and Family Development);
- contact directly any clinics or medical offices that you visited in the community (depending on what is relevant to your case) for copies of your file; and
- you can also contact the relevant regional health authority (such as Vancouver Coastal Health or Fraser Health for copies of any health records from treatment in their hospitals or other facilities.

Call Prisoners' Legal Services if you want to discuss your case and how to request your health records.

You might also want to get a second opinion from an independent health care professional. Depending on what your complaint is about, the second opinion might be about your diagnosis or what medications should be prescribed to you. You will likely need to pay for this. If you can't get a second opinion, quote doctors you saw before or after the health care professional who took a

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different approach, or who disagreed with what the health care professional did. Provide their full name and title, and ask the college to contact them as part of their investigation. Submit the medical records from your visits with that person if possible.

The college might not contact you for more information during their investigation. So you will need to submit all of your evidence with your complaint.

Make sure that, if you find more evidence to support your case, you send it to the college right away. As always, keep a copy of all your letters and the evidence you send for your records, marked with the date they were sent.

## **The college's complaints process**

The Registrar of the college will be the first to assess your complaint.

Normally, the Registrar will send your complaint letter to the health care professional for their response.

The Registrar has three options:

- they can dismiss your complaint. They are only allowed to dismiss your complaint in certain cases. See the section “Applying for a review of the College’s decision” below;
- they can request that the health care professional consent to some kind of remedial action (like agreeing not to do the same thing again in the future, to take educational courses or to a reprimand);

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- they can refer your complaint to the college's Inquiry Committee.

If the Registrar takes action by dismissing your complaint or by resolving it with the health care professional, they need to send a report to the Inquiry Committee. If the Inquiry Committee agrees with what the Registrar did, they will send you a notice summarizing the conclusions and actions taken.

If you disagree with what was concluded or done, you can apply for a review of this decision to the Health Professions Review Board. See the next section.

If the Registrar refers your complaint to the Inquiry Committee, the Inquiry Committee has to investigate it.

At the very least, they have to send your complaint letter (and any evidence you submitted) to the health care professional and ask them for a response.

In other cases, the Inquiry Committee will do more to investigate.

For example, the Inquiry Committee might contact you for more information and give you a chance to respond to what the health care professional said. They might also contact witnesses, send requests to get your medical records, and investigate in other ways.

If the health care professional writes something in their letter to the college that is not true, make sure that you write to the college and tell them. If possible, send evidence to prove that what the health care professional said was untrue or to support your version of events.

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Once the Inquiry Committee has finished their investigation, they will decide whether the health care professional's conduct was satisfactory.

The Inquiry Committee might do any of the following:

- take no further action;
- take action they think is appropriate to resolve the matter between you and the Registrar. This might include trying to resolve the complaint through mediation;
- ask the health care professional to agree not to do the same thing again, to take educational courses, to be reprimanded, or to some other action; or
- send the matter for a discipline hearing.

The Inquiry Committee must deliver a written summary of its decision to you within 30 days of making its decision.

## **Applying for a review of the College's decision**

If you disagree with the college's decision, you can apply for a review by the Health Professions Review Board.

An application for review needs to be submitted to the Health Professions Review Board and the other parties (the health care professional and the college) within 30 days of when the college's decision was delivered to you. If it isn't, you'll need to apply for an extension of time, and this might not be granted.

The Health Professions Review Board will only overturn the college's decision if it finds that:

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- the college’s investigation was inadequate; or
  - the college’s disposition (decision) was unreasonable.

The Review Board will not make its own new decision based on the evidence. It has to defer to the college, so it will only overturn the college’s decision if the college’s investigation was inadequate or its decision was unreasonable.

If any of the following things happened in your case, you can call Prisoners’ Legal Services and we might be able to help you with a review to the Health Professions Review Board. The Health Professions Review Board also has information to guide you through the process.

## **Inadequate investigation**

The college does not have to do a perfect investigation, but it does have to do an adequate investigation. The Review Board will decide whether or not the investigation was adequate based on its assessment of the purposes and goals of the investigation.

The college has to take reasonable steps to get the key information that they need to properly assess your complaint. More investigation might have been required depending on the seriousness of what you alleged in your complaint and how difficult or costly it would have been for them to do the things that you say they should have done to gather information.

You might have a good case for review if any of the following happened:

- if key leads in the investigation were ignored or not

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followed up, and it would not have been overly costly or difficult to do so;

- if you gave the college a list of witnesses to interview but they did not contact those people;
- if the college did not give you an opportunity to respond to the health care professional's submissions (especially if the health care professional's evidence didn't align with your evidence);
- if the health care professional did not respond to a key part of your complaint and the college did not investigate it either; or
- if the Registrar made the decision about your complaint, but the matter was very serious (you can argue it was serious enough that the investigation should have been done by the Inquiry Committee).

## **Unreasonable decision**

The college has to make a reasonable decision. The written reasons must be transparent, intelligible and justified. This means that the reasons must show how the Registrar or the Inquiry Committee came to its conclusion based on the facts in your case and the law.

You might have a good case for review if any of the following happened:

- if the reasons did not address or meaningfully respond to one or more of the key issues or allegations in your complaint;



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- if the college’s conclusion is not supported by the documents and evidence that it had in front of it (your letter and any other documents you sent in, the health care professional’s response and any other documents they sent in, and any information the college found in its investigation);
  - if the college agreed with you that the health care professional did something wrong, but what they ordered was not enough to protect the public from the health care professional doing it again; or
  - if the Registrar made the decision but did not give the reasons for why they made the decision (the Registrar’s report should address every key issue in your complaint and include enough information for the Inquiry Committee to understand their conclusion).

## **Authority to make the decision (“jurisdiction”)**

If the Registrar made the decision without referring it to the Inquiry Committee, you can argue that they did not have the authority (or jurisdiction) to make the decision, and that it should have been referred to the Inquiry Committee.

If the decision says it was made under section 32(3), it was made by the Registrar. If it was made under section 33, it was made by the Inquiry Committee.

You might have a good case for review if any of the following happened:

- if the Registrar dismissed your complaint under s 32(3)(a)

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but the complaint was not trivial, frivolous (groundless, lacking in substance and seriousness), vexatious (brought to annoy, harass, embarrass or abuse), or made in bad faith;

- if the Registrar dismissed your complaint under s 32(3) (b) but the allegations in your complaint did fall in the college's mandate (your allegations were about the health care professional's failure to comply with a standard, limit or condition, or about their professional misconduct or competence);
- If the Registrar dismissed your complaint under s 32(3) (c) or entered into an agreement with the health care professional, but what you alleged was serious enough to result in more than just a warning or reprimand; or
- if the Registrar dismissed your complaint under s 32(3)(c) and found that the health care professional's conduct was satisfactory, but they did not do an adequate investigation (see the "Inadequate investigation" section above) or their disposition was not reasonable based on the evidence (see the "Unreasonable decision" section above).

## Delay

You can also make a complaint to the Health Professions Review Board if the college sent you a notice that they needed more time, but the new deadline in their first notice has passed and they have still not sent you a summary of their decision.

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## **The Health Professions Review Board decision**

If you are successful at the Health Professions Review Board, they will send your complaint back to the college and ask them to make a new decision. They will either tell the college exactly what to do, or they will give them directions to follow in making a new decision.

### **Is my information confidential?**

Everything you send to the college will be shared with the health care professional you are complaining about so that they can respond. Do not write or send anything that you do not want them to see.

While the college is investigating and deciding on your complaint, they might contact witnesses and other people for information about what happened and about your medical history.

Other than this, the medical college staff and the health care professional should not share your information with other people. It is your confidential medical information.

If the college agrees with your complaint, they will post a summary of the case on their website in some cases.

If they do post a notice, it will include the health care professional's name, description of the action taken and reasons. It does not include your name, but if you think that the information posted about the health care professional and what happened would be enough for people to identify you, you can request that the college not include certain information.

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If the Inquiry Committee refers your complaint to a Discipline Hearing, some of the information may become public at the hearing unless the hearing is closed to the public.

If you apply for a review of the college's decision to the Health Professions Review Board, your information might become public if there is an oral hearing (rather than a hearing in writing). But in some cases, the Review Board might agree to keep the information private.

If there is a mediation, you cannot share outside of mediation any document or information that the college or health care professional shares in the mediation.

The Review Board posts all its decisions on its website, but does not include your name or the name of the health care professional.

## **Judicial review**

If you disagree with the decision at the Health Professions Review Board, it is possible to apply for a judicial review at the BC Supreme Court. You would need to apply within 60 days of the Review Board's decision.

If you apply for a judicial review, your full name and information will be made public unless you apply for it to be kept confidential and the court agrees.

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## **Prisoners' Legal Services**

If you are in prison in British Columbia, you can contact Prisoners' Legal Services for advice or assistance with issues that affect your liberty (such as solitary confinement, disciplinary charges or parole hearings) or about health care or human rights issues.

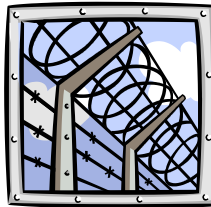
People in federal prisons can contact Prisoners' Legal Services directly at 1-966-577-5245. People in provincial jails can contact Prisoners' Legal Services directly at 604-636-0464.

Our telephone lines are open Monday to Friday 9:00 am – 11:00 am and 1:00 pm – 3:00 pm. Our phones are closed on Wednesday afternoons.





**This publication contains general information only. Each situation is unique. Law and policy can also change. If you have a legal problem, contact Prisoners' Legal Services or a lawyer.**



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