

CCHA Disciplinary Procedures

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- Dec 11 2013 Calgary – Jeananne formatted & created flowchart
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- October 10, 2010: Montreal (Terry, Flo, Savayda, Jeananne, Michael, Genevieve, Marie)

General Notes

This document is to be used as a guidance for member associations when creating disciplinary protocols for addressing complaints of ethical misconduct by their professional members.

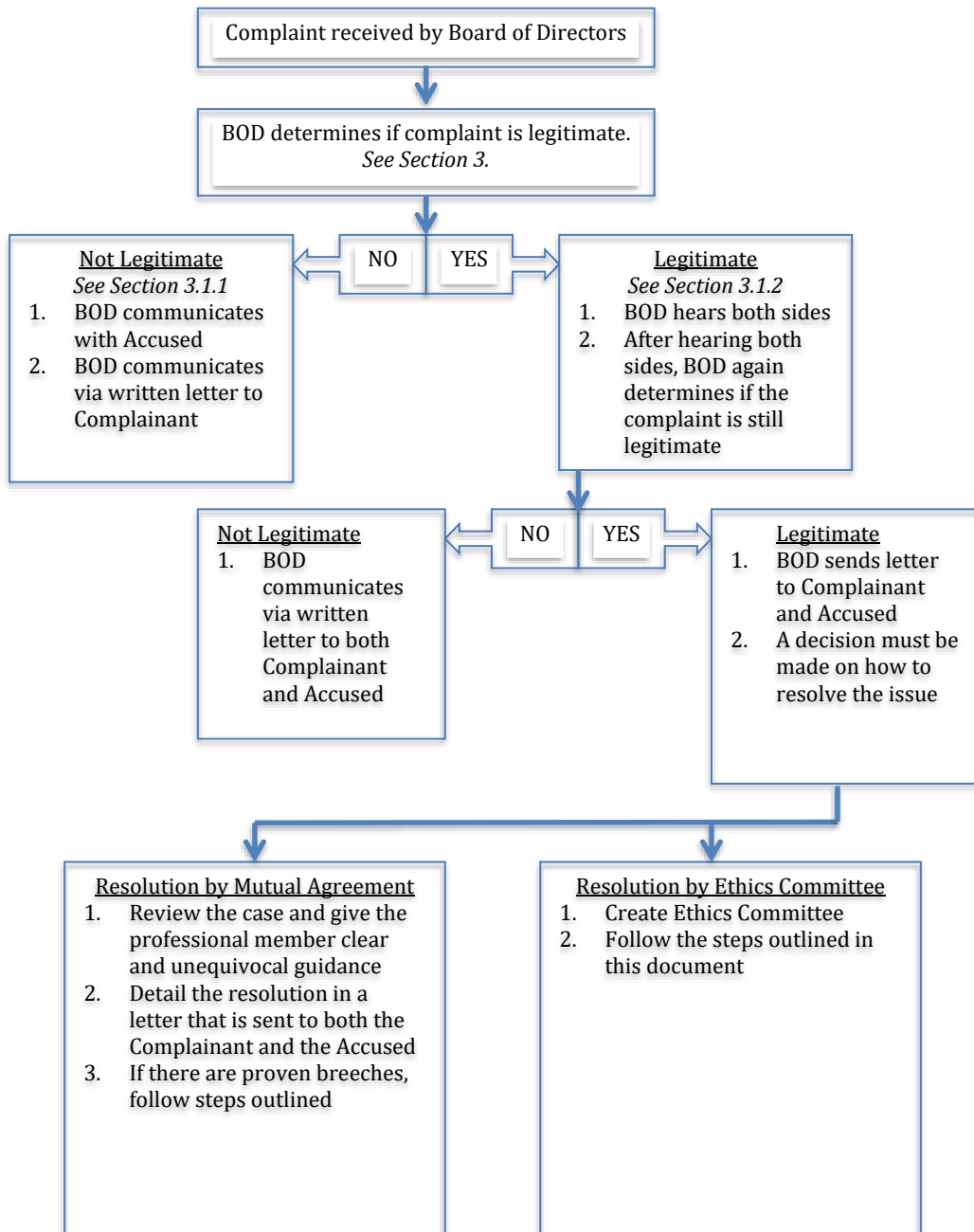
For the purposes of this document, the terms “ethical or professional misconduct” shall refer to the behaviour or conduct of the professional members in relation to the Code of Ethics, Code of Practice, and Scope of Practice of the member Association or directions, advice or statements issued or made by or on behalf of the Board of Directors.

The Code of Ethics, Code of Practice, and Scope of Practice of the Association represent the underlying values that influence and direct the behaviour and conduct of professional members of the Association. These are based on such principles as, honour, integrity, conscientiousness, caring, confidentiality, respect, honesty, impecability and excellence. These principles and values form the basis of the following guidelines.

The strictest confidentiality will be maintained throughout all parts of these procedures.

1. Receiving Complaint

1.1. The following flowchart helps to outline the steps required.



2. Creation of Ethics Committee(s)

- 2.1. The **Professional Ethics Committee (PEC)** shall consist of three professional members of the Association, with three constituting a quorum. Members of this committee are chosen by the Board of Directors (BOD) of the Association. If, for any reason, three professional members of the Association are not available to sit on the PEC, the BOD may choose professional members from other member associations of the CCHA to ensure that the PEC meets the quorum requirements. Any member of the PEC who is not able to attend a meeting or hearing in person, may participate by electronic means. The PEC is responsible for the first hearing and is convened by the President of the member Association (or in his/her absence, the Vice-President). The professional member in question shall have the right to object to any of the members of the PEC with reasonable cause. Should the professional member object to any member of the PEC, the BOD will be responsible for selecting alternate members.
- 2.2. The **Professional Ethics Appeals Committee (PEAC)** shall consist of the President of the member Association (or in her/his absence, the Vice-President) and two other members of the BOD, with three constituting a quorum. If the president or vice-president of the association are either accused or rejected by the accused member another member of the BOD can replace them. Members of this committee are chosen by the BOD of the Association. If, for any reason, three members of the BOD of the Association are not available to sit on the PEAC, the BOD may choose additional members from among the professional members of the Association or, if necessary, professional members from other member associations of the CCHA, as long as they are not members of the PEC, to ensure that the PEAC meets the quorum requirements. Any member of the PEAC who is not able to attend a meeting or hearing in person, may participate by electronic means. The PEAC is responsible for hearing all appeals and is convened by the President of the Association (or in her/his absence, the Vice-President). The professional member in question shall have the right to object to any of the members of the PEAC with reasonable cause. Should the professional member object to any member of the PEAC, the BOD will be responsible for selecting alternate members.
- 2.3. No member of the PEC is eligible to be a member of the PEAC. In addition, no professional member who has had a written complaint placed against them, has a vested interest in the case, or who will be offering evidence in the case may sit on either the PEAC or the PEC.

3. First Hearing and the PEC

- 3.1. If the President of the Association (or in his/her absence, the Vice-President) is notified in writing that a professional member of the Association is alleged to have conducted him/herself in a manner which might constitute ethical or professional misconduct, the President (or in his/her absence, the Vice-President) will call a meeting of the BOD to discuss the allegations.
 - 3.1.1. Should a majority of the BOD of the Association decide that the allegations in question (after hearing both sides of the story) are not of a serious nature or sufficient grounds do not exist with which to conduct a professional misconduct hearing, the President (or in her/his absence, the Vice-President) will contact the complainant to inform her/him of the decision of the BOD.

3.1.2. Should a majority of the BOD of the Association believe that a professional misconduct hearing is warranted,

3.1.2.1. When applicable a written consent of disclosure of client information shall be obtained from the complainant. If access to personal information is pertinent to the investigation and the complainant is not allowing access to that information then the case cannot proceed. It is suggested at this point that a conversation occur with the complainant to resolve the concern.

3.1.2.2. A Professional Ethics Committee (PEC) will be selected. The President of the Association (or in his/her absence, the Vice-President) will serve written notice of the allegations in question to the accused professional member. This notice shall include:

- Full details of the complaint placed against him/her which will set out the types of violations alleged;
- The names of the members of the PEC;
- Notification of his/her right to reject any of the members of the PEC on reasonable grounds, but that he/she may only exercise this right one time and, should they choose to do so, they will not be given the opportunity to reject the alternate member(s) of the PEC selected by the BOD;
- A request for acceptance or rejection of the PEC membership in writing. This statement must be sent to the BOD by the professional member within fifteen days of receiving said request.

3.2. Should the accused professional member accept the PEC as appointed by the BOD, the President of the Association (or in her/his absence, the Vice-President) shall provide full details of the alleged misconduct in writing to the members of the PEC. The President (or in her/his absence, the Vice-President) shall also serve notice to the accused professional member in writing and notify her/him of the following:

3.2.1. The date, time and location of the hearing which shall not be less than fifteen days or more than 90 days after the receipt of said notice;

3.2.2. Notification of the requirement that she/he submit within fourteen days of receiving said notice:

3.2.2.1. A full written statement of evidence on her/his behalf and/or;

3.2.2.2. A written request to submit oral evidence in person together with an outline of the oral evidence to be submitted.

3.3. Should the professional member in question reject the PEC membership as appointed, the BOD of the Association shall select (an) alternate member(s). The President (or in his/her absence, the Vice-President) shall provide full details of the alleged misconduct in writing to the members of the PEC. The President (or in his/her absence, the Vice-President) shall also serve notice to the professional member in question, in writing and notify him/her of the following:

3.3.1. The final list of names of the members of the PEC;

- 3.3.2. The date, time and location of the hearing (which shall not be less than fifteen days or more than 90 days after the receipt of said notice);
- 3.3.3. Notification of the requirement that he/she submit within fourteen days of receiving said notice:
 - 3.3.3.1. A full written statement of evidence on his/her behalf and/or;
 - 3.3.3.2. A written request to submit oral evidence in person together with an outline of the oral evidence to be submitted.
- 3.4. Upon being notified of the details of the alleged misconduct, the PEC shall serve notice to the complainant in writing within 48 hours and notify her/him of the following:
 - 3.4.1. The date, time and location of the hearing, and;
 - 3.4.2. Their right to appear and submit evidence at the hearing in person, or;
 - 3.4.3. Should the complainant wish to remain anonymous, to have the BOD of the Association appoint a representative from among the professional members of this or another CCHA member association to act as a representative on her/his behalf.
- 3.5. Notices shall be served to the professional member in question and the complainant by courier or by registered mail at his/her last recorded address. Notices to the Association shall be served by courier or registered mail to the current mailing address of the Association.
- 3.6. The PEC may call for the professional member in question to submit further evidence before the hearing or subsequent hearings. This request must be served in writing to the member as set out above and must include clear details of what evidence is being sought. The professional member in question must send her/his response in writing to the PEC not more than fourteen days after receiving said notice. Her/his response may include:
 - 3.6.1. A written response including the evidence requested, and/or;
 - 3.6.2. ii) A written request to submit oral evidence in person together with an outline of the oral evidence to be submitted, or;
 - 3.6.3. iii) A written response stating that she/he has no further evidence to submit.
- 3.7. Should the professional member in question fail to serve the PEC his/her response to the above requests within the requested period of time, the PEC shall proceed with the hearing without the benefit of having considered the evidence from the professional member and/or in the absence of said member. Should there be a valid reason as determined by the PEC for the member's lack of response, the first hearing may be postponed or adjourned.
- 3.8. Should the professional member in question require further time to prepare her/his evidence, she/he must submit a request in writing to the PEC not less than seven days before the date set for the hearing. On receipt of the member's request, the PEC shall postpone or adjourn the hearing for at least fifteen days but not more than 90 days from the receipt of the request for the postponement of the hearing.
- 3.9. The PEC may adjourn or postpone the date of the hearing at its discretion, provided that written notice of the new date, time and place of the hearing is served to the professional

member in question and the complainant a minimum of fifteen days before the hearing is to take place.

3.10. On the date of the hearing and after considering the charges made against the professional member in question as well as any evidence provided, the PEC shall decide whether there is a case of professional or ethical misconduct against the member in question. The PEC may then:

3.10.1. Find that there is insufficient evidence to support the complaint and dismiss the case.

3.10.2. Find that a valid case exists and choose one or more of the following actions:

3.10.2.1. Impose no additional consequences.

3.10.2.2. Review the case and give the professional member clear and unequivocal both written and oral guidance regarding his/her actions in relation to the professional Code of Ethics, Code of Practice, and Scope of Practice of the Association.

3.10.2.3. Review the case and require the professional member to undertake a course in ethics or a subject that specifically addresses his/her act of misconduct. The member would be on probation for a period of up to three years as determined by the PEC.

3.10.2.4. Suspend the member from the privilege of professional membership in the Association for a period of time as determined by the PEC. The member's listing as a professional member of the Association in good standing shall also be removed from the website, any published literature or advertising of the Association for a period of time as determined by the PEC.

3.10.2.5. Permanently expel the member from professional membership within the Association and notify the Canadian Council of Herbalist Associations who will in turn notify its member associations of the expulsion and recommend that they not grant membership to the professional member found guilty in their respective associations should he/she apply.

3.11. The PEC shall, within fourteen days of its decision, serve written notice to the convicted professional member as well as send a copy to the board of directors and the complainant. This notice shall include:

3.11.1. The PEC's decision;

3.11.2. If the PEC found that a valid case exists, notification of the convicted professional member's right to appeal said decision to the PEAC, including information regarding the appeals process.

4. Appeals and the PEAC

4.1. If the convicted professional member or complainant decides to appeal the decision of the PEC, she/he must serve notice of intent to appeal to the President (or in her/his absence, the Vice-President) of the Association within thirty days of receiving the decision. If a

request to appeal is not received in writing within thirty days, the right to appeal will be forfeited.

- 4.2. Should the President (or in his/her absence, the Vice-President) of the Association receive a notice of appeal, he/she shall ask the BOD to convene the PEAC within fourteen days of receiving said notice.
- 4.3. Upon selection of the members of the PEAC by the BOD, the President (or in her/his absence, the Vice-President) of the Association shall serve written notice to the convicted professional member. This notice shall include:
 - 4.3.1. The names of the members of the PEAC;
 - 4.3.2. Notification of her/his right to reject any of the members of the PEAC on reasonable grounds, but that she/he may only exercise this right one time and, should she/he choose to do so, she/he will not be given the opportunity to reject the alternate member(s) of the PEAC selected by the BOD;
 - 4.3.3. A request for acceptance or rejection of the PEAC membership in writing. This statement must be sent to the BOD by the convicted professional member within fifteen days of receiving said request.
- 4.4. Should the convicted professional member accept the PEAC membership as appointed by the BOD, the President of the Association (or in his/her absence, the Vice-President) shall serve notice to the convicted professional member, in writing and notify him/her of the following:
 - 4.4.1. The date, time and location of the first hearing which shall not be less than fifteen days or more than ninety days after the receipt of said notice;
 - 4.4.2. Notification of the requirement that he/she submit written notice within fourteen days of receiving said notice:
 - 4.4.2.1. His/her intention to submit oral evidence in person, or;
 - 4.4.2.2. His/her intention to be represented by another professional member of the Association and the name of his/her representative, or;
 - 4.4.2.3. His/her intention to submit a written statement of evidence on his/her behalf.
- 4.5. Should the convicted professional member reject the PEAC membership as appointed, the BOD of the Association shall select (an) alternate member(s). The President (or in her/his absence, the Vice-President) shall provide full details of the case and outcome in writing to the members of the PEAC. The President (or in her/his absence, the Vice-President) shall also serve notice to the convicted professional member in writing and notify him/her of the following:
 - 4.5.1. The final list of names of the members of the PEAC;
 - 4.5.2. The date, time and location of the appeal which shall not be less than fifteen days or more than ninety days after the receipt of said notice;
 - 4.5.3. Notification of the requirement that she/he submit within fourteen days of receiving said notice:

- 4.5.3.1. Her/his intention to submit oral evidence in person, or;
 - 4.5.3.2. Her/his intention to be represented by another professional member of the Association and the name of her/his representative, or;
 - 4.5.3.3. Her/his intention to submit a written statement of evidence on her/his behalf.
- 4.6. Where the request for an appeal comes from the convicted professional member the President of the Association (or in his/her absence, the Vice-President) shall also inform the complainant of the request for an appeal.
- 4.7. The PEAC may call for the convicted professional member to submit further evidence before the appeal. This request must be served in writing to the member and must include clear details of what evidence is being sought. The member in question must send her/his response in writing to the PEAC not more than fourteen days after she/he receives said notice. Her/his response may include:
- 4.7.1. A written response including the evidence requested, and/or;
 - 4.7.2. A written request to submit oral evidence in person together with an outline of the oral evidence to be submitted, or;
 - 4.7.3. A written response stating that she/he has no further evidence to submit.
- 4.8. Should the convicted professional member fail to serve the PEAC his/her response to the above request within the requested period of time, the PEAC shall proceed with the appeal without the benefit of having considered the convicted professional member's evidence and/or in the absence of said member or his/her representative. Should there be a valid reason as determined by the PEAC for the member's lack of response, the appeal may be postponed or adjourned.
- 4.9. Should the convicted professional member require further time to prepare her/his evidence, she/he must submit a request in writing to the PEAC not less than seven days before the date set for the appeal. On receipt of the member's request, the PEAC shall postpone or adjourn the appeal for at least fifteen days but not more than ninety days from the receipt of the request for the postponement of the hearing.
- 4.10. The PEAC may adjourn or postpone the date of the appeal at its discretion, provided that written notice of the date, time and place of the new hearing is served to the convicted professional member and the complainant a minimum of fifteen days before the hearing is to take place.
- 4.11. On the date of the appeal and after considering the charges made against the convicted professional member as well as any evidence provided, the PEAC shall decide whether there is a case of professional or ethical misconduct against the accused member. The PEAC may then:
- 4.11.1. Find that there is insufficient evidence to support the appeal and dismiss it.
 - 4.11.2. Find that a valid case exists and choose one or more of the following actions:
 - 4.11.2.1. Impose no additional consequences.
 - 4.11.2.2. Uphold the decision of the PEC.

- 4.11.2.3. Review the case and give the professional member clear and unequivocal both written and oral guidance regarding his/her actions in relation to the professional Code of Ethics, Code of Practice, and Scope of Practice of the Association.
 - 4.11.2.4. Review the case and require the convicted professional member to undertake a course in ethics or a subject that specifically addresses his/her act of misconduct. The member would be on probation for a period of up to three years as determined by the PEAC.
 - 4.11.2.5. Suspend the convicted professional member from the privilege of professional membership in the Association for a period of time as determined by the PEAC. The member's listing as a professional member of the Association in good standing shall also be removed from the website, any published literature or advertising of the Association for a period of time as determined by the PEAC.
 - 4.11.2.6. Permanently expel the convicted professional member from professional membership within the Association and notify the Canadian Council of Herbalist Associations who will in turn notify its member associations of the expulsion and recommend that they not grant the convicted member professional membership in their respective associations should she/he apply.
- 4.12. The PEAC shall, within fourteen days of its decision, serve written notice to the convicted professional member informing them of the decision made by the PEAC as well as send a copy to the complainant. This decision shall be final and binding on all parties.
- 4.13. The PEAC shall have the power to make or change these rules for any matters relating to professional and ethical misconduct which are not covered by this document. All relevant documents pertaining to each complaint must be kept on file with the member association for seven years.
- 4.14. Regardless of the results, a written note will be retained regarding this proceeding for seven years.