

The image features a large, stylized 'HR' in the background. The 'H' is composed of red and teal blocks, while the 'R' is a solid black shape. The background is a light teal color. On the left, there is a dark blue horizontal bar containing the HRPA logo and the full name of the association.

**HR  
PA**

**Human  
Resources  
Professionals  
Association**

**What to do if a professional  
Complaint is about YOU?**

April 7, 2021

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# ON24 Housekeeping



Attendees will be kept on mute throughout the entire presentation.



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The event survey will be sent out 24 hours after today's event.



Please retain the **access URL** you used to join today's webcast for on-demand viewing of the recording (up to 2 months post event).



Please ensure your **Media Player, Slides** and **Q&A box** are open on your screen.

# Questions Involving Specific Individual Circumstances

- Not the appropriate place and time to address specific individual circumstances.
- Sometimes the correct answer depends on some details that are not provided with the question.
- Please contact the Office of the Registrar [registrar@hrpa.ca](mailto:registrar@hrpa.ca) with questions involving specific individual circumstances.

# 2021 Spring Webinar Series

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<b>April 7, 2021</b>	<b>What to do if a Complaint is about You?</b>
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April 14, 2021	The Validation of Experience Requirement Explained
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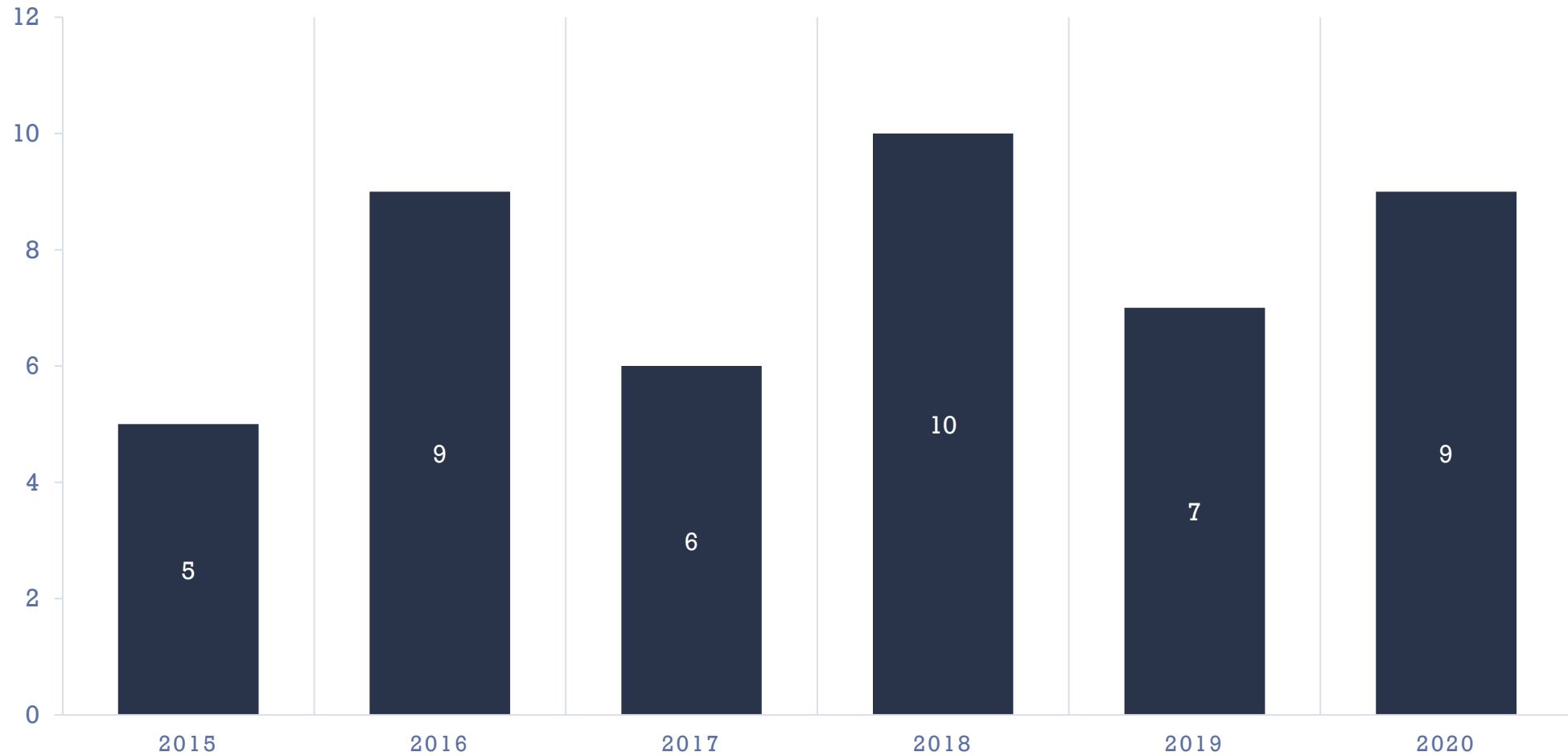
April 21, 2021	Renewing your Registration
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April 28, 2021	The Continuing Professional Development Requirement Explained
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# Agenda

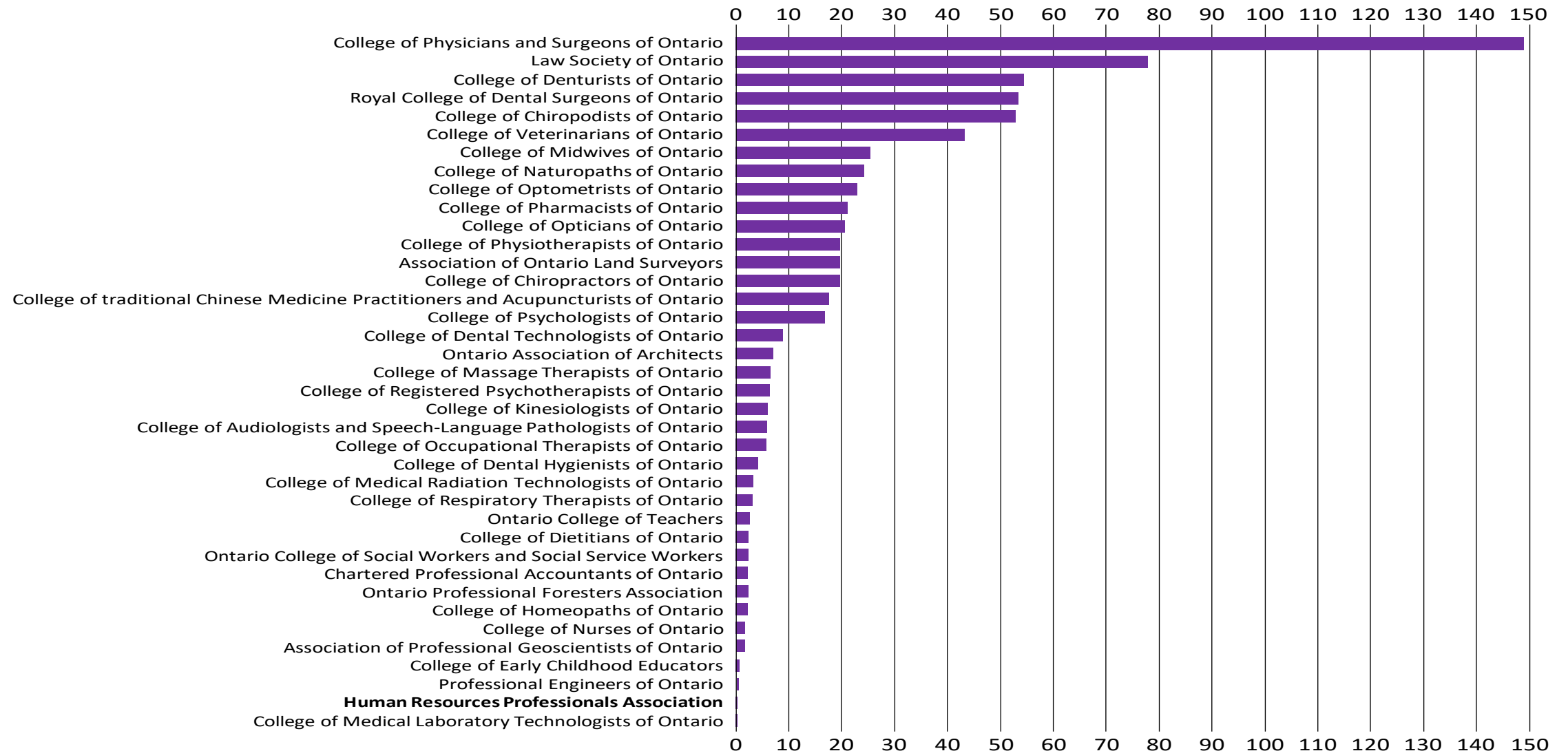
- The purpose of the complaints process and the mandate of the Complaints Committee.
- A walk through the complaints process:
  - Intake and referral to committee
  - Initial review by panel
  - Investigation
  - Panel decision
- Frequently Asked Questions

# Number of Complaints Received Over the Years



# Number of complaints per 1000 registrants for professional regulatory bodies in Ontario

2017





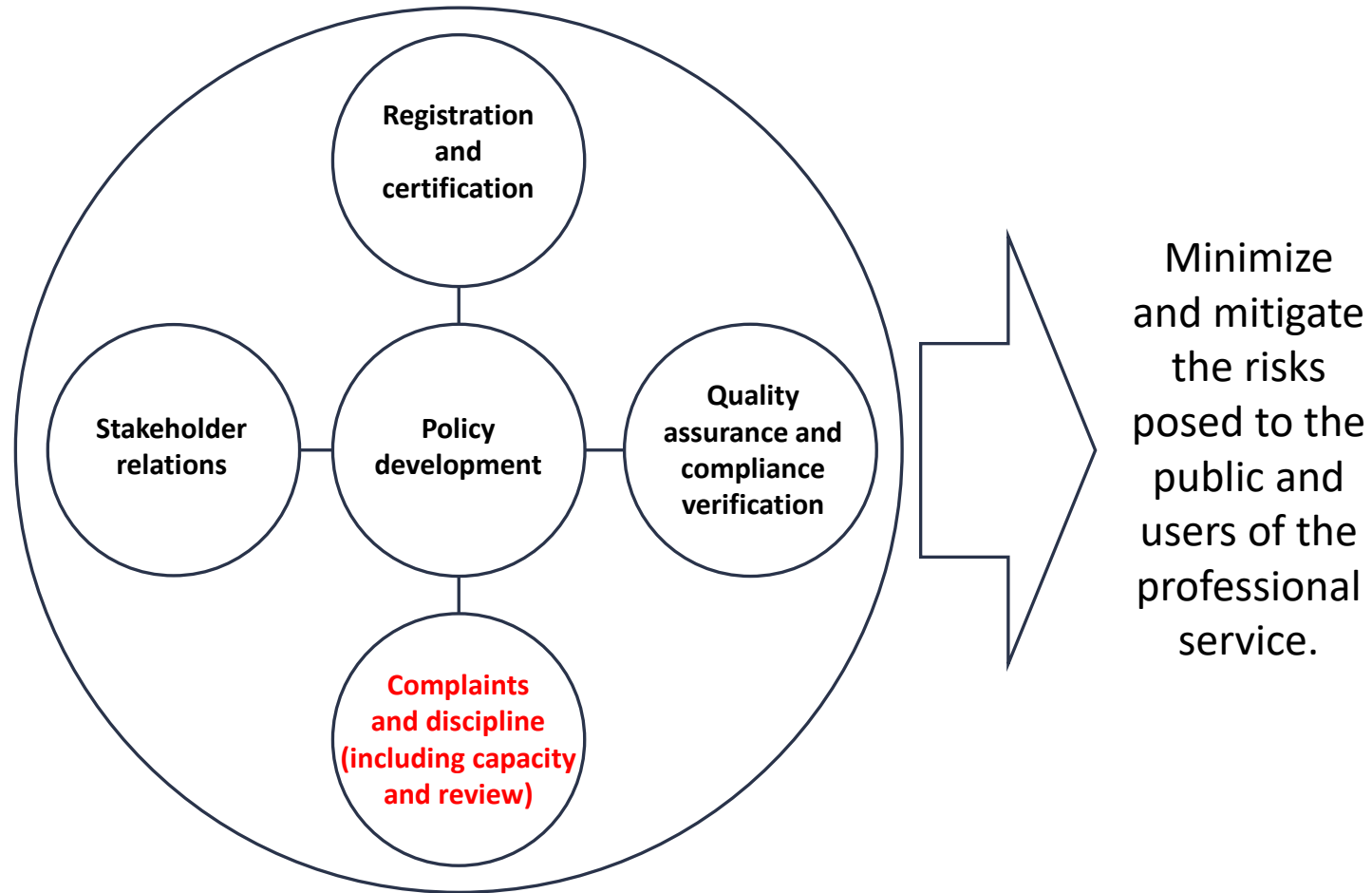
# ‘The Deal’

- The big picture here is ‘the deal’.
- In exchange for the privilege of self-regulation, HRPA and its members agreed to certain terms and conditions.
- The *Registered Human Resources Professionals Act, 2013*, is our contract with the Legislature—it spells out the terms and conditions of our ‘deal’ with the Legislature.
- Establishing and maintaining a fair, impartial, and effective complaints process is part of ‘the deal’.

# What did we agree to?

- We agreed to make the promotion and protection of the public interest our paramount object.
- We agreed to establish, maintain, develop and enforce standards of qualification, standards of practice, standards of professional ethics, standards of knowledge, skill and proficiency, and to regulate the practice, competence and professional conduct of members of the Association, students, and firms.
- We agreed to abide by the *Fair Registration Practices Code* (FARPACTA, 2006), the *Labour Mobility Code* (OLMA, 2009), and the *Statutory Powers Procedure Act, 1990*.
- We agreed to establish and support independent adjudicative committees whose duty is to be fair and impartial.

# HRPA's Regulatory Framework



# Complaints and Discipline

- Complaints and discipline are often lumped together but they are two separate processes.
- The purpose of the complaints process is not to establish fault (that is the purpose of the discipline process).
- The purpose of the complaints process is to decide if a referral to discipline should be made and if not, what other action might be appropriate to protect the public interest.
- The complaints process is sometimes referred to as a 'screening' process.

# Purpose of Complaints Process

- Decide the best course of action in dealing with situations where the conduct of a member may have fallen short of the standards of the profession in such a way as to keep the public safe.
- Maintain public confidence regarding HRPAs willingness and ability to deal fairly and effectively with situations where the conduct of a member may have fallen short of the standards of the profession.

# A Walk Through the Complaints Process

- Intake and referral to committee
- Initial review by panel
- Investigation
- Panel decision

# Intake and Referral

## What happens after the written complaint is submitted to HRPA?

- Once received, the complaint form and supporting documentation are reviewed by the Office of the Registrar and, if necessary, the complainant will be contacted for clarification.
- Confirmation is sent to the complainant that the complaint has been received.

# Intake and Referral

- Once all information has been received from the complainant, a copy of the complaint and supporting documents are sent to the member.
- The member is given 30 calendar days to respond to the complaint. The response must be in writing (letter mail, email or fax) and submitted to the Office of the Registrar.



# Intake and Referral

The complainant is provided with a copy of the member's response (if any) and is given an opportunity to respond (15 calendar days).

This is not an opportunity for the complainant to restate their case, but instead for them to either refute statements made by the member, or address any new issue raised by the member.

# Intake and Referral

The member is provided a copy of the complainant's reply to their response, however, will not be given another opportunity to respond.

In matters of regulation, this back-and-forth information gathering process is referred to as the "Rule of Three" (complainant-member-complainant).

# Panel Review and Investigation

- The Chair appoints members of the Complaints Committee to a Panel of three to review and consider the complaint.
- The Complaints Committee is composed of volunteer members who hold the CHRL and/or CHRE designations, as well as representatives of the public.

# Panel Review and Investigation

**After reviewing all the information provided in the complaint, the Complaints Committee panel may decide that the matter requires further investigation**

- The Panel may interview witnesses
- The Panel may appoint an investigator

# Investigation: No obstruction

## **As articulated in the *Registered Human Resources Professionals Act, 2013*:**

- A member shall not obstruct an investigator executing their duties or withhold from them or conceal, alter or destroy any document or thing relevant to the investigation.

# Investigation

**Investigator's powers (as articulated in the Act) state that an investigator may:**

- At any reasonable time, enter and inspect the business premises of the member under investigation, other than any part of the premises used as a dwelling without the consent of the owner or occupier and without a warrant.
- Question and require the member to provide information relevant to the investigation.
- Examine any document or thing that is relevant to the investigation, including a client file under the member's control.

# Investigation

- On giving a receipt for it, remove any document or thing under the member's control that is relevant to the investigation for the purposes of making copies or extracts, returning the document or thing promptly to the member from whom it was taken.
- Use any data storage, processing or retrieval device or system used in carrying on business on the premises that is under the control of the member in order to produce a document in readable form (e.g., print an electronic document).

# Who are Investigators?

- When HRPAs appoints an investigator, these investigators are (external) professional investigators.
- Because the Registrar would be a party to any discipline proceeding should a referral to discipline be made, the Registrar cannot investigate.
- Should the case be referred to discipline, the investigation report is 'discoverable' and the investigator will appear as a witness.
- Also, if an investigation is poorly done it can jeopardize the whole case at discipline.



# Panel Decision

- Once the case review is complete, the Panel considers all the evidence and may decide upon one or more of the following:
  - Direct that the matter not be referred to the Discipline Committee,
  - Take any action that it considers appropriate in the circumstances, including requiring the member to attend before one or more members of the Panel to receive a caution or admonishment,
  - Negotiate a tentative settlement agreement between HRPAs and the member and refer the agreement to the Discipline Committee for approval,
  - Direct that the matter be referred, in whole or in part, to the Discipline Committee.

# How Long Does the Complaints Process Take?

The timeline for the resolution of a complaint depends on the complexity of the case. Once all information relevant to the complaint has been received, the Committee makes every effort to reach a decision within 150 calendar days.

# Is it Possible to Appeal a Decision of the Complaints Committee?

The request for an appeal must be made within 30 calendar days of the Panel's decision and reasons letter being provided to the complainant and the member.

# Is it Possible to Appeal a Decision of the Complaints Committee?

There must be a legitimate reason or 'grounds' to request an appeal; simply disagreeing with a decision is not sufficient.

## **A denial of natural justice, e.g.:**

- The individual did not have a fair opportunity to present their case;
- The panel or individual making the original judgment was not/were not impartial; and/or
- The process, policy or rule that was applied is flawed, unfair, or unreasonable. Here the process or rule itself is challenged rather than the specific application of the process.

## **An error in the decision itself, e.g., the committee or Registrar:**

- Failed to consider the correct facts; and/or
- Failed to apply the correct rule or policy in making their decision.

# Confidentiality

- Complaint matters are confidential meaning that the information is not made public.
- Discipline proceedings are public. However, if a referral is made to discipline, previously confidential information may be made public.

# How are Complaint Matters Kept Confidential?

- All members of the Complaints Committee, Office of the Registrar staff, and any other participants in the proceedings, are bound by a confidentiality requirement which is embedded in the *Act* (with a \$25,000 fine upon conviction).
- Information regarding individual complaints cases provided to Panel members is destroyed when it is no longer needed.

# What Can't the Complaints Committee do?

- HRPAA has no authority to provide a financial remedy to the complainant.
- The Complaints Committee cannot award any damages.
- The Complaints Committee cannot dictate that an individual be rehired once they have been terminated by their employer.

# Matters that are Subject to Other Adjudicative Processes

- If a complaint is before another adjudicative board, the Complaints Committee panel may stay proceedings pending resolution of other adjudicative process.
- If the Complaints Committee defers to the resolution of another adjudicated process, they reserve the right to reopen any matter if there are issues not dealt with through the other adjudicated process.
- It is the obligation of the member to advise HRPAs of the nature of any settlements.



# What Happens if the Complainant Withdraws the Complaint?

- As noted earlier, misconduct is a matter of a breach of a covenant the member or student has made with the Association, the complainant is a witness.
- Often, when a complainant chooses to no longer participate in the process, there isn't a viable case to pursue.
- However, just because a complainant chooses to withdraw their participation in the process does not mean that the Complaints Committee must abandon the case, it can choose to continue its investigation of the matter.

# What to Do When the Complaint is About You?

- We recognize it is difficult at a psychological level to have someone challenge one's competence or professionalism.
- Unfortunately, that is just part of being a regulated profession.
- What to do?
  - Co-operate with HRP
  - Trust the process

# Where To Send a Complaint

Written complaints may be submitted to the Office of the Registrar by email, mail or fax:

[registrar@hrpa.ca](mailto:registrar@hrpa.ca)

150 Bloor St. W. Suite 200

Toronto, ON

M5S 2X9

# Questions?

Suggestions for webinar topics?

Feedback?

[registrar@hrpa.ca](mailto:registrar@hrpa.ca)

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