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COMPLAINTS & DISCIPLINE	Alternative Dispute Resolution	1
		Create Date May 26, 2021

Intent/Purpose To provide comprehensive policies governing the Alternative Dispute Resolution (ADR) program of the College of Naturopaths of Ontario (the College).

Definitions	Acknowledgement & Undertaking	Means an agreement by a Registrant to the College to do certain things, or to refrain from doing certain things.
	ADR Mediator	Means an independent ADR practitioner retained by the College for the purpose of facilitating resolution of a complaint in accordance with s.25.1 of the Code.
	Alternative Dispute Resolution	Means the mediation, conciliation, negotiation, or any other means of facilitating the resolution of issues in dispute as set out in section 1(1) of the <i>Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991</i> (RHPA) (the Code).
	CEO	Means the Chief Executive Officer of the College appointed under section 9(2) of the Code and who performs the duties of "registrar" as set out in the Code.
	Code	Means the Health Professions Procedural Code which is Schedule 2 of the RHPA.
	College	Means the College of Naturopaths of Ontario as established under the <i>Naturopathy Act, 2007</i> and governed by the <i>Regulated Health Professions Act, 1991</i> .
	Formal Complaint	Means a complaint that meets the following requirements: 1. The complaint must be in writing or recorded on a tape, film, disk or other medium. 2. The Complainant must be identified. 3. The Registrant must be identifiable. 4. The complaint must identify some conduct or actions that are of concern. 5. The Complainant must intend the matter to be a complaint.
	HPARB	Means the Health Professions Appeal and Review Board, as established under the Code.
	Incapacity	Means that the Registrant is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the Registrant's certificate of registration be subject to terms, conditions or limitations, or that the Registrant no longer be permitted to practise, as set out in subsection 1(1) of the Code.

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Incompetence	Means that a Registrant's professional care of a patient displayed a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that the Registrant is unfit to continue to practise or that the Registrant's practice should be restricted, as set out in subsection. 52(1) of the Code.
Inquiries, Complaints and Reports Committee (ICRC)	Means the statutory committee of the College established pursuant to paragraph 3 of section 10(1) of the Code and which investigates registrant-specific concerns (e.g., professional misconduct, incompetence, incapacity).
RHPA	Means the <i>Regulated Health Professions Act, 1991</i> , S.O. 1991, c. 18, as amended from time to time.

General	Legislation	In accordance with section 25 of the Code, a Formal Complaint may be referred to an ADR process by the CEO if the matter is eligible and with consent of both the Complainant and the Registrant.
		All Formal Complaints will be managed in accordance with the Code.
	Confidentiality	Members of the ICRC and ICRC support staff will act in accordance with these policies and the ICRC Procedures Manual.
		ICRC members and any persons retained by the College to facilitate ADR have a statutory duty of confidentiality, set out in section 36 of the RHPA which provides that every person employed, retained or appointed for the purposes of the administration of the RHPA shall preserve secrecy with respect to all information that comes to their knowledge in the course of their duties and shall not communicate any information to any person except to the extent the information is available to the public under the RHPA or in connection with the administration of the RHPA or as otherwise permitted by the Act.
		All communications that are a part of an alternative dispute resolution process, including but not necessarily limited to the mediator's notes and records shall remain confidential and be deemed to have been made without prejudice to the parties in any proceeding.
	Bias/Conflict of Interest	No member of a panel and/or ADR Mediator can have a real or an appearance of conflict of interest. Where an appearance of or real conflict of interest exists, the individual must declare it to staff and ICRC members and will excuse themselves from the discussions.
		Panel members and/or ADR Mediators must be impartial and disinterested in the outcome of the matter coming before them for decision. An individual may be disqualified because of actual or perceived conflict of interest.

Formal Complaints	Informal Resolution of Pre-Complaint Matters	Prior to the filing of a Formal Complaint, potential complainants may contact the College with questions or to seek clarification. At no time will staff encourage or discourage the making of a Formal Complaint. Staff shall provide information about the complaint process and any potential for an informal resolution (e.g., suggesting communication between the Registrant and the potential Complainant) so that the person can make an independent determination. If the person indicates that they wish to make a Formal Complaint, staff shall provide all reasonable assistance to the person. Where there is a serious risk of significant harm and a Formal Complaint is not filed, the matter will be brought to the attention of the CEO. Staff must be neutral and impartial at all times. This means not saying or doing anything that suggests that the staff person supports or does not support the filing of a complaint. Once a Formal Complaint has been filed, staff shall not take any action that might be construed as trying to facilitate a resolution of the matter. In order for a matter to be referred to an ADR process, it must meet all of the eligibility criteria outlined below.
	Notice of Receipt to the Complainant	Staff will provide the Complainant notice of receipt of the Formal Complaint on behalf of the CEO as outlined in section 25.(5) of the <i>Code</i>. Should the matter be eligible for ADR, staff will provide the Complainant with additional information about the ADR process and inquire as to whether the Complainant wishes to undertake an ADR process. The Complainant shall be provided at least 7 days to decide whether to undertake an ADR.
	Notice of Complaint to Registrant	Staff will provide the Registrant notice of the Formal Complaint on behalf of the CEO as outlined in section 25.(6) of the <i>Code</i>. Where the Complainant agreed to undertake an ADR process, the Registrant will be provided with information and the opportunity to decide whether to participate in an ADR process.
	Written Agreement to Participate	Where both parties agree to participate in ADR, both parties shall complete and return to the College an agreement to participate.
	Approval of Eligibility	The Formal Complaint and the agreements to participate will be provided to the CEO for consideration for referral to an ADR process in accordance with section 25.1(1) of the <i>Code</i>.

ADR Administration	Mediator	The person who is appointed to act as the ADR Mediator shall not participate in any other manner with regards to the complaint and/or related discipline proceedings.
	Timelines	Where a matter is referred to ADR by the CEO a resolution must be completed and submitted for ICRC ratification within 60-days of the referral. Should a resolution not be agreed upon within the time limit, the ICRC may proceed with its investigation of the complaint; however, the ADR Mediator may continue the facilitation if they believe there is a reasonable prospect of a resolution being reached. The ICRC adopt a resolution that is reached within 120-days of the referral; however, it may not adopt any resolution reached after that time frame.
	Prior History	Complaints resolved through ADR and adopted by a panel of the ICRC do not constitute Prior History as defined in subsection 26(2) of the Code. However, the fact and details, including but not limited to the resolution of the ADR outcome, will be provided to future panels in the event of a subsequent complaint or report.
	Discontinuing ADR	An ADR process may be discontinued at any time upon request of either the Complainant or the Registrant or, if in the opinion of the ADR Mediator, it becomes evident that either party is not acting in good faith or a resolution is unlikely.
	Right to Appeal	Agreed upon ADR resolutions do not constitute a decision of the ICRC made pursuant to s.26(1) of the Code and as such there is no right of appeal the HPARB by either the Complainant or Registrant.
	Agreement Ratification	Both the Registrant and Complainant must sign any agreement outlining the proposed resolution. The agreement shall be referred to the CEO who may, in turn, refer it to a panel of the ICRC in accordance with section 25.1(4)(b) of the Code for review and acceptance to ensure it is in accordance with the public interest. Once an agreement has been accepted by either the CEO or a panel of the ICRC, per subsection 25.1(5)(a) of the Code, it is considered to be a full and final resolution of the matter.
	Monitoring	Staff of the College will be responsible for monitoring that the terms of the agreement are completed by the Registrant and/or Complainant.
	Costs	Any costs associated with the ADR Mediator are paid by the College.
Eligibility	Eligibility Criteria	In order for a matter to be referred to an ADR process it must meet all of the criteria outlined below: • A Formal Complaint has been submitted to the College;

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- Both the Complainant and Registrant must agree to participate in the ADR Process;
 - All of the allegations in the complaint are eligible for ADR; and
 - None of the exclusion criteria apply.

Exclusions

A matter cannot be referred to an ADR if any of the following situations apply:

- The allegations involve sexual abuse or incapacity concerns;
 - The ICRC has already issued a decision and reasons or made a referral to the Discipline Committee with regards to the Formal Complaint;
 - The Registrant has a prior discipline history with the College;
 - The Registrant has been the subject of a similar complaint or report filed within the preceding 2 years;
 - The Registrant is currently under investigation for any other issue;
 - The Formal Complaint includes concerns relating to:
 - Violation of professional boundaries;
 - A criminal matter;
 - Inappropriate or incompetent patient care;
 - Practicing outside of the scope of practice;
 - Failure to perform an authorized act safely and competently;
 - Failure to abide by an order of the College;
 - Practicing while suspended;
 - Intentional dishonesty or fraud.
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