



August 21, 2013

HEALTH PROFESSIONS REVIEW BOARD

Proposed Case Management Review Process

In November 2012, as part of a greater Provincial government wide efficiency initiative, the Health Professions Review Board (Review Board) began a review of its case management processes. The goal of this process is to identify possible improvements and opportunities for a more streamlined, efficient way of managing an increasing case load. The Review Board also wanted to ensure that any new processes or refinements respect the rights of all parties to administrative fairness.

This initiative has the full support of the Review Board membership.

I INTRODUCTION

The project objectives were to identify and implement process improvements for case file management, determine potential staffing gaps and organizational structure and standardize Case Management activities.

The Review Board identified current challenges and possible Stakeholder issues with the current case management process (Stakeholders are identified as Complainant/Applicants, Regulatory Health Colleges, Registrants of Health Colleges and respective legal representatives).

We began by surveying four distinct groups to obtain their perspectives about our process: employees/Board Members, past Complainants/Applicants, past unrepresented Registrants, and College representatives/Registrants' legal counsel. Quotations in italics in this memo represent selected excerpts from survey responses.

Review Board staff then embarked on a five-day LEAN Kaizen event that involved a review of the survey data and a detailed mapping and scrutiny of our current state process to identify wastes such as delays, inventory backlog, duplication, over-production, over-processing, rework loops, information transfers and defects/standardization. We identified three areas of focus: **Communication**, **Standardization** and **Roles and Responsibilities**. Finally, we compared our current state process to an ideal state model, and designed a future state process.

The working group identified a number of areas for process improvement that if implemented have the potential to improve case management times, reduce the process burden on all stakeholders and provide Complainants/Applicants, College's and Registrants with faster resolutions all while reducing identified wastes and saving all stakeholders, including the Review Board, valuable resources.

We have received input from our Review Board Members and now seek feedback from our Stakeholders about the following proposed changes.

II REVISED REVIEW BOARD PROCESSES

Proposed Changes to current processes are:

- 30 day abeyance period will be discontinued. Files to be assigned to a Case Manager (CM) earlier in the process
- Early file screening for summary dismissal consideration by Review Board
- Increased emphasis on mediation
- New expedited hearing process
- Tighter times frames for process directions

30 day abeyance period deferring production of the College's record of investigation or registration decision will be discontinued

The 30 day abeyance period was originally established by the Review Board to allow the Colleges to defer producing the Record of Investigation or Registration decision for 30 days. This allowed parties to enter into dispute resolution discussions with each other without Review Board involvement.

On occasion, this idea allowed for some proactive and ultimately satisfactory resolution of issues. However, in general the time was rarely used to that end and in many cases simply added additional delay to the Review Board process.

Parties seeking to work together to attempt an early resolution of a Review Board file will continue to have the ability to request an abeyance to pursue resolution. However, a College requesting an abeyance to delay the production of the Record will be required to report back to the Review Board on their specific plans and times lines for early resolution. The request for an abeyance for purposes of attempting resolutions will not be unreasonably denied.

Files to be assigned to a Case Manager earlier in the process

Review Board Case Managers will take ownership of files earlier in the process. This will reduce duplication of information currently being provided to all parties and allow for streamlining of processes.

Early file screening for summary dismissal consideration

"... it is not uncommon for the appeal to have no validity"

"...emphasize limits of HPRB jurisdiction...manage the expectations of applicants"

"...should be more selective in the types of complaints they accept"

Currently the Board does screen files for issues such as late filing (files received beyond the 30 day time limit) deficiencies, and applications not properly submitted in

compliance with legislative requirements. This initiative's goal takes that screening one step further and ties in with comments received from the 'voice of customer' survey and also Review Board Member input.

Upon implementation of the proposed new changes the Review Board, **on its own initiative**, will start to routinely screen accepted Review applications for any obvious grounds for Summary Dismissal consideration under s. 31 of the *Administrative Tribunals Act* (e.g. outside jurisdiction, frivolous, vexatious, or made in bad faith, failure to diligently pursue and substance has been dealt with in another process). This is not intended to address the argument of no merit, or "no reasonable prospect of success", which will be dealt with through a new expedited hearing process, unless it is clear that a determination can be made without the Record of Investigation or Registration.

This is meant to be an initial "screening" to determine if the Review Board ought to dismiss the application for a review prior to reviewing the record. If it appears Summary Dismissal may be appropriate the Review Board will seek written submissions from the Complainant/Applicant, as required by the *Administrative Tribunals Act*, and determine whether it is necessary to hear from the other parties before deciding whether to summarily dismiss or not.

Three Process Streams

After the early file screening, if the application is determined to be properly within the jurisdiction of the Review Board and not otherwise appropriate for summary dismissal as described above, Case Managers will make an assessment and recommendation to direct the files to one of three streams: Mediation, Stage 1 Expedited Hearing Stream, or Stage 2 Full Formal Hearing process (Written or Oral).

1. Mediation:

"Mediation can be helpful."

"Mediation in particular (works well)"

"Insist(ing) on participation in early mediation"

"Mediators also do a good job"

In the strongest possible way the Review Board will reinforce the benefits of mediation and alternative dispute resolution. For most applications mediation will be the default stream.

Results from the surveys as well as historical dispute resolution feedback continue to confirm this as the preferred avenue for resolution of applications.

Case Managers as well as assigned Board Member mediators will continue to assess the appropriateness of mediation through dialogue with all parties.

If mediation is not appropriate, or is tried but is unsuccessful, the file will move either to a new Stage 1 Expedited Hearing Stream or the Stage 2 Full Formal full Hearing stream.

2. Stage 1 - Expedited Hearing Stream:

“Decisions could be issued in a more timely fashion”

“Timelines need to be quicker”

“Control the process more effectively”

Assuming there are no obvious Summary Dismissal issues, or those issues have been resolved, the Case Manager will issue the notice to the College and Registrant that a complaint/registration application has been received, (with a copy of the complaint or application) and will direct the College to prepare and provide the Record of the Investigation / Registration decision.

Information received from the Voice of Customer survey indicated that additional submissions from Complainants/Applicants are not always necessary. In some files Complainants/Applicants have clearly indicated they have nothing more to submit having provided all their submissions with their original application. In other cases the Review Board has determined the matter might be determined without any need for the Colleges or Registrants to provide a response. This element of the process will provide an avenue for dealing with a significant number of applications in an efficient and fair manner while respecting the Complainant's/Applicants right to be heard and to have an impartial review of the College decision.

It is anticipated the Stage 1 expedited process will lessen the submission burden on Colleges and Registrants and only require their involvement when the member reviewing the application determines there is a reasonable prospect the application has merit and therefore there is a need to provide an opportunity to all parties to be heard. Further, for Colleges and some Registrant representatives dealing with a large volume of applications, this process has the possibility of significantly freeing up resources and responsibilities. It is also anticipated that these College and Registrant resources will be re-directed to fully participating in and supporting Review Board mediation efforts.

The Review Board will not entertain summary dismissal applications from parties at this stage.

New Stage 1 Expedited Hearing Stream process:

- (1) Case Manager will request **from the Complainant/Applicant only** a Statement of Points and any additional documents or submissions as to whether he/she is seeking an oral hearing and the grounds for an oral hearing. The College and the Registrant will receive a copy of the Review Board letter but will not have the right to respond at this point.
- (2) The request for a Statement of Points will include notice that the application could be dismissed at this stage. A Board Member adjudicator will be assigned to review the College Record and all submissions received to date from the Complainant/Applicant.
- (3) After review the Board Member adjudicator may then dismiss the application with reasons if he or she concludes a more formal hearing is not necessary for a fair adjudication *and that the application can be fairly and appropriately*

dismissed without hearing from the other parties and without the need for further process.

- (4) Documents are admitted for purposes of the Stage 1 hearing only at this time. The College and/or the Registrant will have the right to object to the admission of the Complainant's documents if the matter proceeds to a Stage 2 full hearing.
- (5) If the adjudicating Board Member is satisfied that the investigation was adequate and the disposition was reasonable based on the information before him/her they will issue a decision on the merits confirming the college disposition under section 50.54(9)(a) of 50.6(8)(a) of the *Health Professions Act* **within 30 days** of being assigned the file.

No finding that would result in the matter being referred back to the College under sections 50.54(9)(b) or (c), or sections 50.6(8)(b) or (c) of the *Health Professions Act* will be made after a Stage 1 expedited hearing. If, in light of the record and/or submissions made by the Complainant, the adjudicator considers that the matter cannot be fairly and appropriately dismissed without hearing from the other parties, the adjudicator will refer the matter to a Stage 2 hearing.

3. Stage 2 - Full Formal Hearing Process (Written or Oral)

As noted above, the decision to proceed to a Stage 2 Full Formal Hearing will rest with the Board Member adjudicator. If, after the Stage 1 review, the adjudicating Board Member determines that further information or submissions from any party or witnesses is required, to determine if the Complaint investigation was adequate, the disposition reasonable or the registration decision was proper, the Board Member will direct the matter to a Stage 2 full hearing. In most circumstances the Board Member will make the decision about whether or not the review is to proceed to a Stage 2 hearing within 14 days

The adjudicating member will provide further directions to obtain the necessary information, determine the style of hearing (written is the most common) and provide the College and Registrant an opportunity to respond to the application for review and make submissions, including any objections to admission of additional evidence from the Complainant/Applicant in Stage 1.

These processes changes are only the start. As part of the culture of continuous improvement the Review Board will also be looking at:

- Modified Rules and practice directives to reflect process amendments and Review Board philosophy.(please refer to the attached rule amendments)
- Encouraging Colleges to provide the Complainant with a copy of the Registrant's responses (and an opportunity to comment) during their investigation, in an effort to encourage more transparency earlier in the College's process (We note that some College's have already adopted this approach).
- More robust mediation.

- Paperless processes: as much as possible, the Review Board will be attempting to go paperless or digital. This will involve cooperation from all stakeholders and will be adopted as appropriate to specific circumstances. Proper information security procedures will need to be in place to ensure privacy is fully protected.
- Website redesign: the Board is in the process of reviewing our website to make it more user friendly and helpful to stakeholders as the primary source of all Review Board information.

III REVIEW AND PROVIDE FEEDBACK

Next steps:

Prior to finalizing these proposed changes we want to hear from **you**, our stakeholders.

Please [email](#) your **feedback by September 13, 2013** to hprbinfo@gov.bc.ca. Please use the subject line **Case Management Changes Feedback**.

Please note:

The Health Professions Review Board is an independent administrative tribunal. Submissions made to the Review Board which are not part of a specific application review process are subject to standard freedom of information guidelines and are not confidential.

Please direct any questions on this process to project lead, Gino Nasato, Gino.Nasato@gov.bc.ca. 250-953-5181.

Thank you,

Health Professions Review Board Lean Team

Attachments: Proposed Rule Amendments