

G-22 Investigation Process Policy

Section	Date Issued	Revision Date(s)	Date of Last Review
Governance	March 2021		March 2021

1. POLICY STATEMENT

The Investigation Process Policy will provide guidance to the Manitoba Association of Registered Respiratory Therapists (MARRT) members and members of the public when submitting concerns/complaints.

2. DEFINITIONS

None

3. POLICY

MARRT is committed to undertaking the investigation in an expedited manner and to reach a decision as quickly as reasonably possible in order to maintain procedural fairness.

The individual under investigation is obligated to participate in a timely and cooperative manner throughout the investigation. Failure to do so may result in disciplinary action.

Given the extreme variability in cases there are no specified timelines to adhere to, other than in some written communication timelines.

The Investigator Chair is appointed from amongst the Board of Directors.

The Complaints Committee refers complaints to the Investigator Chair within seven days of decision, or following receipt of appeal from complainant regarding the rejection of the informal resolution of the complaint on record.

The Registrar must inform the complainant in writing within seven days that the matter has been referred to the Investigator Chair.

The Investigator Chair has two options when initiating an investigation:

- direct the Registrar to investigate, or

- appoint any other individual, such as a member of MARRT, a private investigator or a lawyer.

The Investigator may require the member being investigated to:

- provide any documents related to the matter,
- attend an interview

If the member does not comply with the requests within 21 days, the Investigator may apply to the Court of King's Bench for an order compelling production of requested documents and to the member to attend an interview.

Where a lawyer is required, they will be required to assist in obtaining the order. This lawyer can be the same individual who would be engaged to act as a prosecutor if the case is referred to the Discipline Committee.

The Investigator also has the right to obtain documents from any other person or institution if they deem the material relative to the case.

The Investigator may also expand the investigation and investigate any other matter concerning conduct, capacity, or fitness to practice Respiratory Therapy that arises during the investigation.

Upon completion of the investigation, the Investigator must submit a written report of their findings within seven days to the Investigator Chair.

The Investigator Chair can elect to:

- direct that no further action be taken, or
- direct that the matter be referred to the Discipline Committee.

The Investigator Chair is not required to hold a hearing to render their decision, but at a minimum the complainant and the member must be informed of the decision by registered mail within seven days of receipt of report.

The complainant may appeal the decision of no further action to be taken by providing a written submission to the Investigator Chair within 15 days of receipt of decision.

Within 30 days, the Discipline Committee will convene and is responsible for the handling of the appeal regarding the decision. In order to make their decision regarding the appeal, they can choose to:

- hold an in person hearing where both the complainant and the investigated member have the opportunity to speak to the matter, or
- request a written response from the complainant and the investigated member (both will have 30 days to respond).

The written decision submitted will recommend to either:

- direct that no further action be taken, or
- refer matter to the Discipline Committee for further inquiry.

*** The Discipline Committee should not make findings of fact or credibility in their decision and should only convey whether the matter is serious enough to warrant a hearing.**

The Investigation Chair may direct the Registrar to suspend the member pending completion of the investigation. This is generally considered when there is a perceived risk to the safety of the public.

The Duty of Procedural Fairness increases here and if being considered the Investigator Chair should:

- retain a lawyer for advice on procedural matters,
- provide notice to the member that suspension is being considered, and
- give the member opportunity to be heard.

If it is deemed necessary to suspend the member without notice, a hearing before the Investigator Chair shall be scheduled (waiving normal required meeting notice time). This process is to consider whether to proceed or lift the decision to suspend the member from practice.

Interim suspensions may be appealed to the Court of Queen's Bench.

4. REFERENCES

None