

**BY-LAW RESPECTING
THE COMPLAINT
EXAMINATION PROCEDURE**

Adopted by the members of the
Board of Directors
of the Centre intégré universitaire de santé et de services sociaux
du Centre-Ouest-de-l'île-de-Montréal
December 1, 2016
pursuant to section 29
of the *Act respecting health services and social services*,
CQLR c. S-4.2

NOTE TO READERS:

The masculine gender used in this document includes women as well as men. The masculine gender is used in a non-discriminatory manner and solely for the sake of conciseness.

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PREAMBLE

WHEREAS the person requiring services from the Centre intégré universitaire de santé et de services sociaux (“CIUSSS”) du Centre-Ouest-de-l’Île-de-Montréal is the reason for the very existence of those services;

WHEREAS respect for the user and recognition of his rights and freedoms must inspire every act performed in his regard;

WHEREAS the user must be treated, in every intervention, with courtesy, fairness and understanding, and with respect for his dignity, autonomy and needs;

WHEREAS the function of an institution is to ensure the provision of safe, continuous and accessible quality health or social services which respect the rights and spiritual needs of individuals and which aim at reducing or solving health and welfare problems among the population;

WHEREAS every person is entitled to receive, with continuity and in a personalized manner, health services and social services which are scientifically, humanly and socially appropriate, taking into consideration the framework of the legislative and regulatory provisions relating to the organizational and operational structure of the institution and the limits of the human, material and financial resources at its disposal;

WHEREAS a user has the right to make a complaint regarding the services the user received, ought to have received, is receiving or requires from the institution, an intermediary or family-type resource or any other organization, partnership or person to which or whom the institution has recourse, in particular by an agreement under sections 108 and 108.1 of the *Act respecting health services and social services* (“ARHSSS”), for the provision of those services, except in the case of a complaint concerning a physician, dentist, pharmacist or medical resident who practises with such an organization, partnership or person;

WHEREAS a user who requires assistance for the formulation of a complaint or for any further step related to the complaint is entitled to that assistance;

WHEREAS a user has the right to have his complaint examined in a responsible, confidential and prompt manner, without risk of reprisals;

WHEREAS the board of directors of the CIUSSS du Centre-Ouest-de-l’Île-de-Montréal is responsible for ensuring the quality of the services, respect for users’ rights and promptness in processing users’ complaints;

WHEREAS the board of directors must make a by-law establishing a complaint examination procedure after consulting with the Council of Physicians, Dentists and Pharmacists (“CPDP”);

WHEREAS, pursuant to sections 31 and 43 of the ARHSSS, the board of directors must take steps to preserve at all times the independence of the local commissioner, the assistant local commissioner and the medical examiner in the exercise of their functions;

THE BOARD OF DIRECTORS ENACTS THE BY-LAW RESPECTING THE COMPLAINT EXAMINATION PROCEDURE OF THE CIUSSS DU CENTRE-OUEST-DE-L’ÎLE-DE-MONTRÉAL AND WILL ENSURE IT IS TRANSMITTED TO THE MINISTER ONCE IT HAS BEEN APPROVED.

SECTION 1 - GENERAL PROVISIONS

1. Definitions

In this By-law, unless otherwise indicated by the context, the following terms and expressions have the following meaning:

- **ARHSSS** – The Act respecting health services and social services (CQLR c. S-4.2);
- **Assistant service quality and complaints commissioner** (hereinafter the “assistant commissioner”) – The assistant commissioner exercises the functions delegated by the commissioner and acts under his authority;
- **Board of directors** – The board of directors of the CIUSSS;
- **CIUSSS** – Centre intégré universitaire de santé et de services sociaux du Centre-Ouest-de-l’Île-de-Montréal;
- **Competent Authority** – The Associate Dean of Postgraduate Medical Education and Professional Affairs of McGill University;
- **Complaint** – Any verbal or written dissatisfaction expressed by a user to the commissioner regarding the services the user received, ought to have received, is receiving or requires from the institution, an intermediary or family-type resource or any other organization, partnership or person to which or whom the institution has recourse for the provision of services, in particular by an agreement under section 108 or 108.1 of the ARHSSS, except in the case of a complaint concerning a physician, dentist, pharmacist or medical resident who practises with such an organization, partnership or person;
- **Complaint concerning a physician, dentist, pharmacist or medical resident** – For purposes of Section 5 of this By-law, a complaint includes the expression to the commissioner, by any person, of his dissatisfaction regarding the behaviour, conduct or competence of a physician, dentist, pharmacist or medical resident as well as dissatisfaction regarding the quality of an act falling within the professional activities of these persons; a complaint also includes an allegation that the rules and regulations of the institution have not been followed or that the terms of the resolution appointing or renewing the appointment of a physician, dentist or pharmacist by the board of directors have not been respected;
- **CPDP** – Council of Physicians, Dentists and Pharmacists of the CIUSSS;
- **Designated regional organization** – The Centre d’assistance et d’accompagnement aux plaintes de l’Île de Montréal (“CAAP-Island of Montreal”) is an organization mandated by the Minister, pursuant to section 76.6 of the ARHSSS, to assist and support, on request, a user who wishes to make a complaint to an institution or to the Public Protector, including when the complaint is forwarded to the CPDP of the CIUSSS to be examined for disciplinary purposes or to the review committee;
- **External resource** – An intermediary or family-type resource or any other organization, partnership or person to which or whom the institution has recourse for the provision of services, in particular by an agreement under section 108 or 108.1 of the ARHSSS, except for the services provided by a physician, dentist, pharmacist or medical resident who practises with such an organization, partnership or person;
- **Institution** – The CIUSSS, including all of its facilities;
- **Intervention** – Any action undertaken by the commissioner or the assistant commissioner on his own initiative or at the request of a third party when apprised of the facts and when there are reasonable grounds to believe that the rights of a user or group of users are not being enforced. An intervention is handled in the same manner as the examination of a complaint;
- **Medical examiner** – Any physician designated by the board of directors of the CIUSSS in accordance with section 42 of the ARHSSS, on the recommendation of the CPDP;

- **Minister** – The Minister of Health and Social Services;
- **Office of the commissioner** – Office managed by the commissioner and spread out over several points of service in proximity to users within the territory of the CIUSSS;
- **President and Executive Director** – The President and Executive Director of the CIUSSS;
- **Professional** – Any person who holds a licence issued by an order and is entered on the roll of that order in accordance with the Professional Code (CQLR c. C-26);
- **Public Protector** – The Public Protector appointed by the National Assembly pursuant to the Public Protector Act (CQLR c. P-32), who exercises the functions of the Health and Social Services Ombudsman (Act respecting the Health and Social Services Ombudsman, CQLR c. P-31.1);
- **Resident** – In accordance with sections 110 and 244 of the ARHSSS, the board of directors of the institution bound by a contract of affiliation to a university must assign the status of medical resident to a person holding a doctoral degree in medicine who is undergoing a post-doctoral training program at a CIUSSS facility;
- **Review committee** – The committee established by the board of directors of the CIUSSS, which reviews the handling by the medical examiner of the examination of a complaint concerning a physician, dentist, pharmacist or medical resident at the request of any person, including the user or the professional concerned;
- **Service quality and complaints commissioner (i.e. ombudsman)** (hereinafter the “commissioner”) – Appointed by the board of directors of the CIUSSS, to whom he reports; among other things, he applies the complaint examination procedure;
- **Services** – The health or social services or telehealth services offered by the institution, by an intermediary or family-type resource or by any other organization, partnership or person to which or whom the institution has recourse for the provision of services, in particular by an agreement under section 108 or 108.1 of the ARHSSS. Within the scope of these agreements, the examination of user complaints does not apply to the services provided by a physician, dentist, pharmacist or medical resident who practises with such an organization, partnership or person.
- **Staff** – Any member of the staff of the institution, the research centre or the foundation, any trainee, volunteer or contractual worker working in the institution as well as any physician, dentist, pharmacist or medical resident called upon to intervene in respect of a user in the exercise of his functions or profession;
- **Substitute medical examiner** – The substitute medical examiner intervenes at the request of the commissioner as soon as the designated medical examiner considers himself to be in an actual or potential position of conflict of interest or conflict of roles. He may also intervene, within the applicable time limits, when the medical examiner is absent (e.g. : vacation, illness, etc.);
- **User** – In accordance with the ARHSSS, any person who received, ought to have received, is receiving or requires services provided by the CIUSSS; where applicable, this term includes any of the user’s legal representatives within the meaning of section 12 of the ARHSSS as well as any heir or legal representative of a deceased user. For purposes of Section 4, the term “user” also includes any person other than a user who makes a complaint concerning a physician, dentist, pharmacist or medical resident and it also includes any person who participates in research in accordance with section 34 of the ARHSSS.
- **Users’ committee** – The committee whose purpose is, upon request, to support and assist a user in any step undertaken to file a complaint, both at the level of the institution (users’ committee) and at the level of the CIUSSS (CIUSSS central users’ committee);
- **User’s legal representative** – Any person recognized by law or by a court to act as tutor, mandatory or curator;

- **Verbal complaint** – Any complaint that does not satisfy the requirements of a written complaint is deemed to be verbal;
- **Watchdog committee** – The committee established by the board of directors of the CIUSSS whose primary purpose is to ensure the follow-up, with the board of directors, of the recommendations made by the commissioner, the assistant commissioner, the medical examiner, the review committee or the Public Protector regarding complaints and interventions falling within their respective jurisdiction;
- **Written complaint** – A complaint is deemed to be written when it is filed on a medium on which the signature of the person making the complaint can be discerned.

2. Purpose and Scope

The purpose of this By-law is to establish the procedure for implementing the functions related to complaint examination by the Centre intégré universitaire de santé et de services sociaux du Centre-Ouest-de-l' Île-de-Montréal (hereinafter the "CIUSSS"), in accordance with the *Act respecting health services and social services* (CQLR c. S-4.2 [hereinafter the "ARHSSS"]) and the *Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies* (CQLR c. O-7.2).

3. Preamble

The preamble hereto forms an integral part hereof (see p. 5).

4. Title

This By-law may be referred to as the "Complaint examination procedure".

5. Responsibility for application of the By-law and functions

Commissioner (i.e. Ombudsman)

The service quality and complaints commissioner (hereinafter the "commissioner") is appointed by the board of directors and reports to it. He applies the complaint examination procedure. He is answerable to the board of directors for the enforcement of user rights, for user satisfaction and for the diligent handling of user complaints. To that end, he exercises exclusively the functions provided for in the ARHSSS, including promoting the complaint examination process. In performing his functions, the commissioner takes action on his own initiative when apprised of the facts and when there are reasonable grounds to believe that the rights of a user or group of users are not being enforced.

The commissioner takes the means necessary to promote and disseminate information among users and staff regarding the formulation of complaints and their handling (promoting the complaint examination procedure). He recommends actions to improve the handling of complaints, including a revision of the complaint examination procedure.

Assistant commissioner

The board of directors may, whenever it deems it necessary, appoint one or more assistant service quality and complaints commissioners (hereinafter an "assistant commissioner"). An assistant commissioner exercises the functions delegated by and acts under the authority of the commissioner. In the exercise of his functions, an assistant commissioner is vested with the same powers and immunity as the commissioner.

Medical examiner

The medical examiner is designated by the board of directors on the recommendation of the Council of Physicians, Dentists and Pharmacists (hereinafter the "CPDP") to apply the complaint examination procedure in cases involving a physician, dentist, pharmacist or medical resident who practises with the CIUSSS, and he reports to the board of directors. He examines any complaint formulated by a user or by any other person.

The board of directors of the CIUSSS may, where it deems it necessary and on the recommendation of the CPDP, designate one medical examiner for each facility. The board of directors must ensure that the medical examiner is not in a conflict of interest situation in the exercise of his functions.

Review committee

The function of the review committee is to review the handling by the medical examiner of the examination of a complaint made by anyone. It does not have jurisdiction where a complaint is referred for a disciplinary investigation or where a complaint has been dismissed by the medical examiner because he considers it frivolous, vexatious or made in bad faith.

Immunity

The commissioner, the assistant commissioner, the medical examiner and the members of the review committee benefit from immunity, such that no legal proceedings may be brought against them for an act performed or an omission made in good faith in the exercise of their functions.

They may not be compelled to testify in a judicial proceeding or a proceeding before a person or body exercising adjudicative functions concerning any confidential information obtained in the exercise of their functions, or to produce a document containing such information, except to confirm its confidential nature.

They must disclose any actual or apparent conflict of interest. In particular, they must do so if they or their close relations have a personal or business relationship with the persons concerned by the object of the complaint.

In accordance with the ARHSSS, they must take the oath set out in Schedule I of this By-law before beginning to exercise their functions.

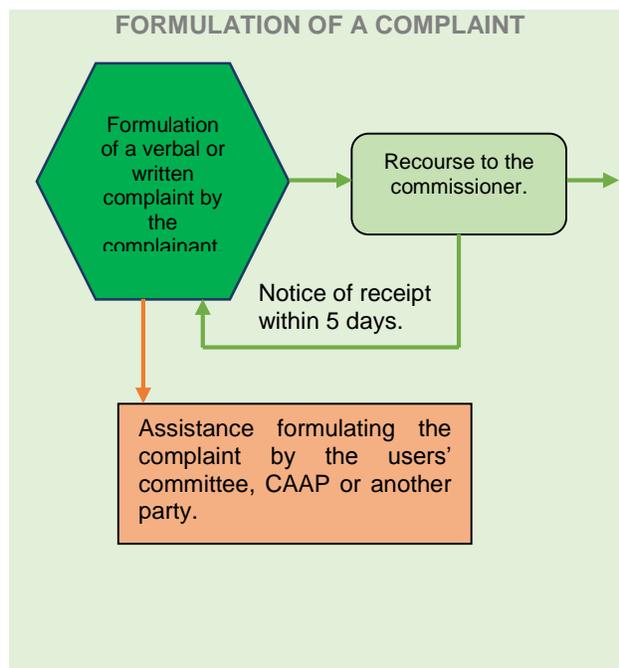
SECTION 2 - FORMULATION AND RECEIPT OF COMPLAINTS

6. Formulation of a complaint

It is recommended that a user first discuss his dissatisfaction with the person in question and the relevant service head. Then, if doing so is difficult or if the result is inconclusive, this complaint, whether verbal or written, may be made at the point of service of the office of the commissioner located near the place where the services were received. When a user insists on making a complaint, he must be directed towards the commissioner. To do so, any service provider must provide the user with information allowing him to easily access the commissioner.

7. Forwarding

Any service provider who receives a written user complaint addressed to the commissioner must forward it without delay to the office of the commissioner.



8. Content of a complaint

A complaint must, at the very least, contain the following elements, based on their relevance:

- ⇒ the date the complaint was formulated;
- ⇒ the family name, first name, address and telephone number of the user in question;
- ⇒ the unit or department contemplated in the complaint, where applicable;
- ⇒ where the complaint is formulated by the user's legal representative, the family name, first name, address and telephone number of the representative;
- ⇒ the family name, first name, address and telephone number of the person or of the users' committee or the community assistance organization supporting the user, where applicable;
- ⇒ the date on which the event giving rise to the complaint occurred;
- ⇒ what it is that the user is dissatisfied about;
- ⇒ a brief description of the facts;
- ⇒ the expected outcome, as the case may be.

9. Assistance

The commissioner must give the necessary assistance or see to it that the necessary assistance is given to the user for the formulation of his complaint or for any further step related to the complaint, including with the review committee.

The commissioner must inform the user about the possibility of being assisted and supported by the institution's users' committee or by the designated regional organization (CAAP-Island of Montreal).

Every user is entitled to be accompanied and assisted by any person he chooses.

10. Information to the user

At the request of the user, the commissioner must provide any information regarding the application of the complaint examination procedure. Furthermore, he must inform the user about the protection that the ARHSSS affords to any person who cooperates in the examination of a complaint.

11. Receipt of the complaint

Upon receipt of a complaint, the commissioner must register the date of receipt and consider the request.

12. Notice of receipt

Within five (5) days following receipt of a written or verbal complaint, the commissioner must inform the user thereof in writing, unless he has sent the user his conclusions within 72 hours after the complaint was received.

The notice must state:

- ⇒ the date on which the complaint was received;
- ⇒ where the complaint concerns a physician, dentist, pharmacist, or medical resident, the date of its referral to the medical examiner;
- ⇒ the name of the users' committee or of the community assistance organization for the Montreal region;
- ⇒ the time limits prescribed by the ARHSSS for the examination of the complaint, namely, 45 calendar days from the date on which the complaint was received or, as the case may be, from the date of referral to the medical examiner;
- ⇒ the fact that the commissioner's failure to communicate the conclusions of the examination of the complaint within the 45-day time limit give rises to the right to apply to the Public Protector or, if the failure to communicate is by the medical examiner, to the right to apply to the review committee;
- ⇒ in all cases, the remedies that may be pursued by a user who disagrees with the conclusions of the commissioner or, as the case may be, of the medical examiner.

13. Referral of the complaint by the commissioner

Where the complaint concerns a physician, dentist, pharmacist, or medical resident, the commissioner must refer the complaint to the medical examiner without delay. He must also transfer any writing or document relating to the complaint.

However, where a user makes a complaint regarding administrative or organizational problems involving medical, dental or pharmaceutical services, the complaint must be examined by the commissioner in accordance with the provisions of Section 3 of this By-law, unless the commissioner, after consulting with the medical examiner, is of the opinion that one or more physicians, dentists, pharmacists, or medical residents are the subject of the complaint, in which case the complaint must be referred to the medical examiner.

14. Notice to an external resource

Where the written complaint concerns the services provided by an external resource to which the institution has recourse for the provision of services, the commissioner must give written notice thereof to the authority concerned or, if the commissioner is of the opinion that no prejudice will be caused to the user, forward a copy of the complaint to the authority. If the complaint is verbal, the commissioner must inform the authority concerned verbally.

SECTION 3 - HANDLING OF COMPLAINTS INVOLVING THE EXAMINATION OF THE INSTITUTION BY THE COMMISSIONER

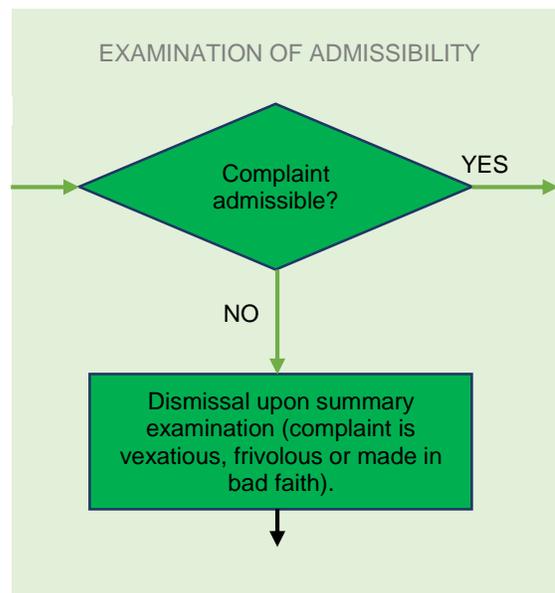
15. Admissibility of the complaint

Based on his powers, the commissioner must assess the admissibility of the complaint by ensuring it has been formulated by a user or his legal representative and that it involves services offered by the CIUSSS or by an external resource or participation in a research protocol.

16. Jurisdiction

When a complaint or one of its objects does not fall under the jurisdiction of the institution, the commissioner may, with the consent of the person concerned, refer it to the authority of competent jurisdiction.

When the complaint under examination involves the organizational or administrative aspect of medical services, the commissioner must seek the cooperation of the medical examiner to identify measures for improvement.

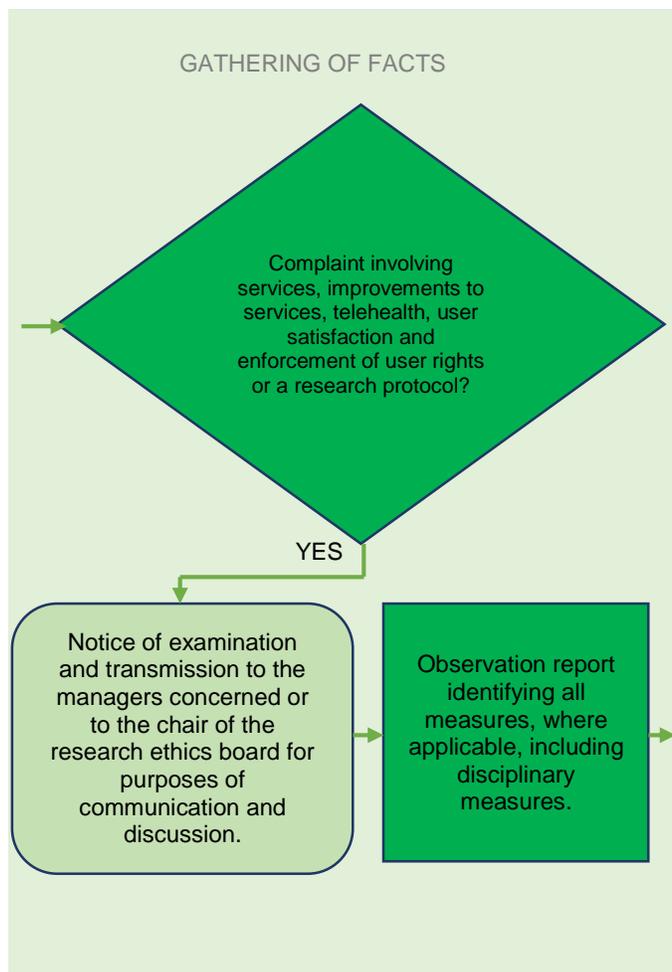


17. Complaint that is frivolous, vexatious or made in bad faith

The commissioner may, upon summary examination, dismiss a complaint if, in his opinion, it is frivolous, vexatious or made in bad faith. He must inform the user thereof and must do so in writing in the case of a written complaint. He must file a copy of his decision in the user's complaint record.

18. Notice of examination

The commissioner must, without delay, notify the user in writing and inform, as the case may be, the department or service manager concerned, the chair of the research ethics board or the highest authority within the external resource concerned by the complaint, of his decision to examine the complaint. The notice must state that each of the parties may present their observations and indicate how those observations will be gathered. To that end, the commissioner must select a method favouring the expression of the parties' observations. In cases of systemic failures (dysfunctions involving work or organizational processes), the managers concerned, or the chair of the research ethics board, must present their observations by means of a report that identifies all measures, where applicable.



Any complaint involving a practice or the conduct of a member of the staff of the institution or of an external resource must be examined in accordance with the provisions of Section 4 of this By-law.

19. Conciliation

When examining a complaint, the commissioner must act as a conciliator. He must assess the basis for the complaint and, in light of the facts and circumstances having given rise to the complaint, propose to the persons concerned any solution liable to mitigate the consequences thereof or prevent a recurrence. In addition, the commissioner may make any recommendation he considers appropriate.

20. Calling of meetings

The commissioner may call any person to a meeting and ask the person to provide any information he considers useful for the examination of the complaint. When the person called to a meeting or asked to provide information by the commissioner is a manager, a member of the staff of the institution or practises his profession at the institution, the person must act upon the commissioner's request. Any other person must, unless he has a valid reason, attend any meeting called by the commissioner.

21. User's record

The commissioner is entitled to access the user's record and to obtain the communication of any information or document contained therein.

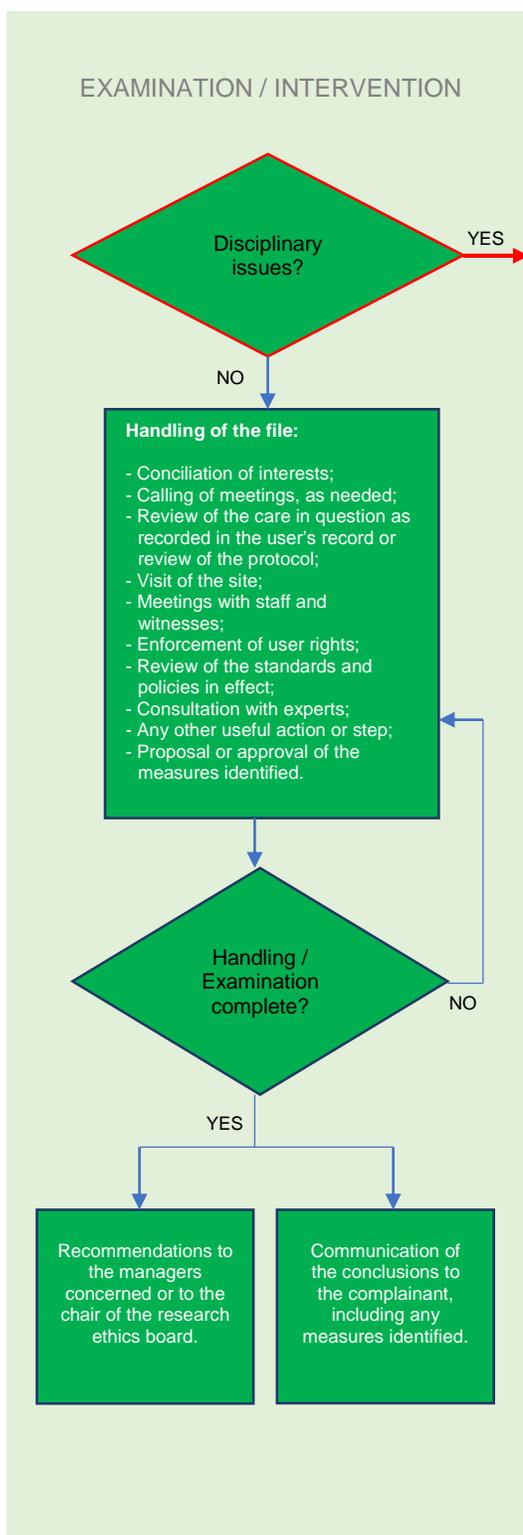
22. Consultations

The commissioner may consult any member of the staff of the CIUSSS whose expertise he considers useful. He may also consult any expert from outside the institution, in accordance with the rules set by the board of directors.

23. Conclusions and time limit

The commissioner must examine complaints promptly. He must communicate the conclusions of his examination to the user having formulated the complaint no later than 45 days following receipt of the complaint, including, as the case may be, the recommendations and measures forwarded by him to the board of directors and to the authorities of competent jurisdiction. In the case of a written complaint, he must send this information in writing.

He must also inform the user about the remedy the user may pursue with the Public Protector (i.e. Quebec Ombudsman) as well as the means for doing so.



24. Presumption

If the commissioner fails to respect the time limit stipulated in the ARHSSS, he is deemed to have communicated negative conclusions to the complainant. In such a case, the complainant has the right to apply to the Public Protector (i.e. Quebec Ombudsman).

25. Failure to follow recommendations, recurrence or gravity of the situation

Where the department or service manager concerned within the institution or, as the case may be, the highest authority of the external resource that was the subject of a complaint does not intend to act upon a recommendation set out in the reasoned conclusions of the commissioner, the latter must inform the President and Executive Director thereof and may provide the board of directors with any report or recommendation addressing the improvement of service quality as well as user satisfaction and enforcement of user rights.

The board of directors must examine any recommendation or report provided to it by the commissioner and make the decision it deems appropriate in the circumstances, taking into consideration any recommendations made by the watchdog committee.

26. Report or recommendations

The commissioner may provide the board of directors with any report and, via the watchdog committee, with any recommendation addressing the improvement of service quality as well as user satisfaction and enforcement of user rights.

The board of directors must examine any recommendation or report provided to it by the commissioner and make the decision it deems appropriate in the circumstances, taking into consideration any recommendations made by the watchdog committee.

SECTION 4 - HANDLING OF COMPLAINTS INVOLVING DISCIPLINARY MATTERS NOT FALLING UNDER THE RESPONSIBILITY OF THE MEDICAL EXAMINER

27. Disciplinary matters

If questions of a disciplinary nature in relation to a practice or the conduct of a staff member are raised during the commissioner's examination, he must bring these questions to the attention of the department concerned or the human resources manager within the institution, the highest authority of the organization, resource or partnership or the person holding the position of highest authority responsible for the services that are the subject of the complaint, for a more thorough investigation, follow-up action or any other appropriate action. The commissioner may also make recommendations to that effect in his conclusions

28. Examination of disciplinary matters

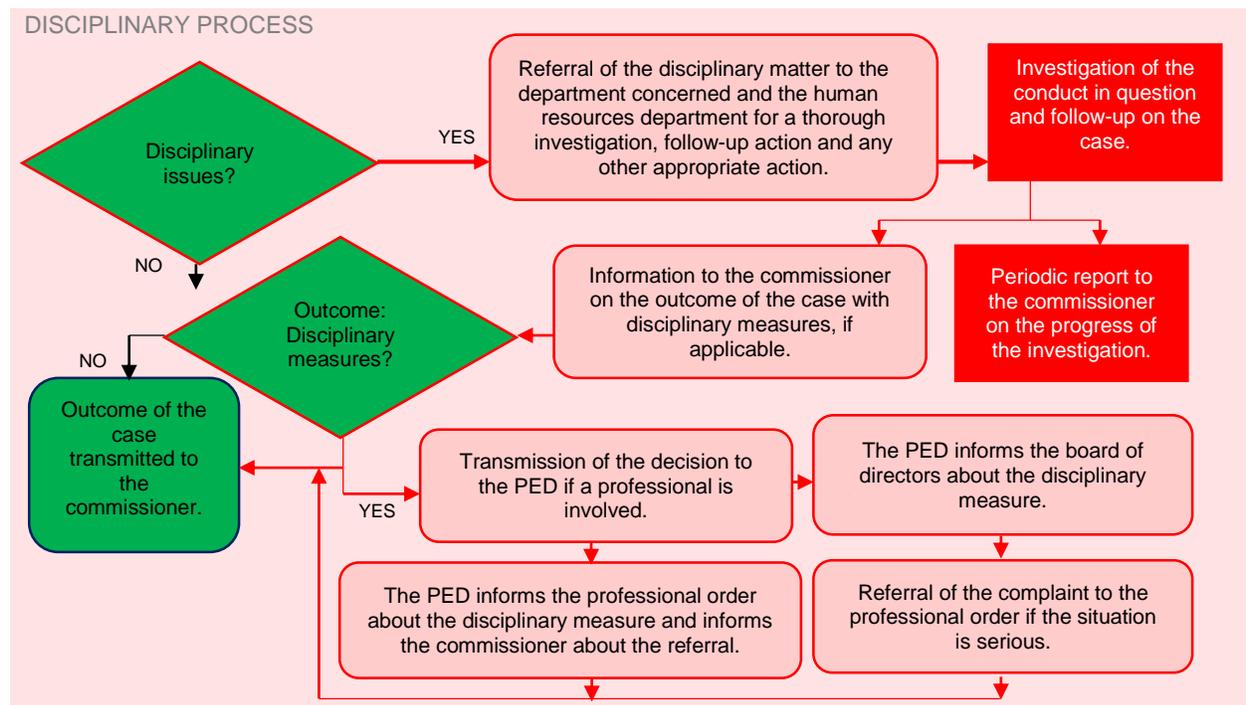
The authority concerned by the disciplinary matters must diligently investigate the case brought to its attention and report periodically to the commissioner on the progress of the investigation.

The commissioner must be informed of the outcome of the case and of any disciplinary measure taken against the staff member concerned. The commissioner must in turn inform the user. Where a disciplinary measure involves a professional, the President and Executive Director must be informed thereof so he can perform his obligation with respect to the disciplinary measures.

29. Disciplinary measures

When any disciplinary measure is taken against a professional, the President and Executive Director (hereinafter the "PED" in the diagrams) must inform the professional order in writing and the commissioner. The commissioner must inform the user in writing about the disciplinary measures taken.

If warranted, in the opinion of the board of directors, by the gravity of a complaint against an employee who belongs to a professional order, the board may transmit the complaint to the professional order concerned and inform the commissioner. The commissioner must inform the user in writing about the decision of the board of directors.



SECTION 5 - HANDLING OF COMPLAINTS INVOLVING A PHYSICIAN, DENTIST, PHARMACIST OR MEDICAL RESIDENT BY THE MEDICAL EXAMINER

30. Complaint that is frivolous, vexatious or made in bad faith

The medical examiner may, upon summary examination, dismiss a complaint if, in his opinion, it is frivolous, vexatious or made in bad faith. He must inform the complainant thereof and must do so in writing in the case of a written complaint. He must file a copy of his decision in the complaint record and also inform the commissioner.

31. Assessment of the complaint

The medical examiner must, as soon as possible after a complaint has been submitted to him, carry out a preliminary assessment of the complaint to determine how it will be handled based on the elements available to him.

Where the complaint pertains to administrative or organizational problems involving medical, dental or pharmaceutical services, the commissioner and the medical examiner may cooperate in the examination of the complaint.

32. Disciplinary referral

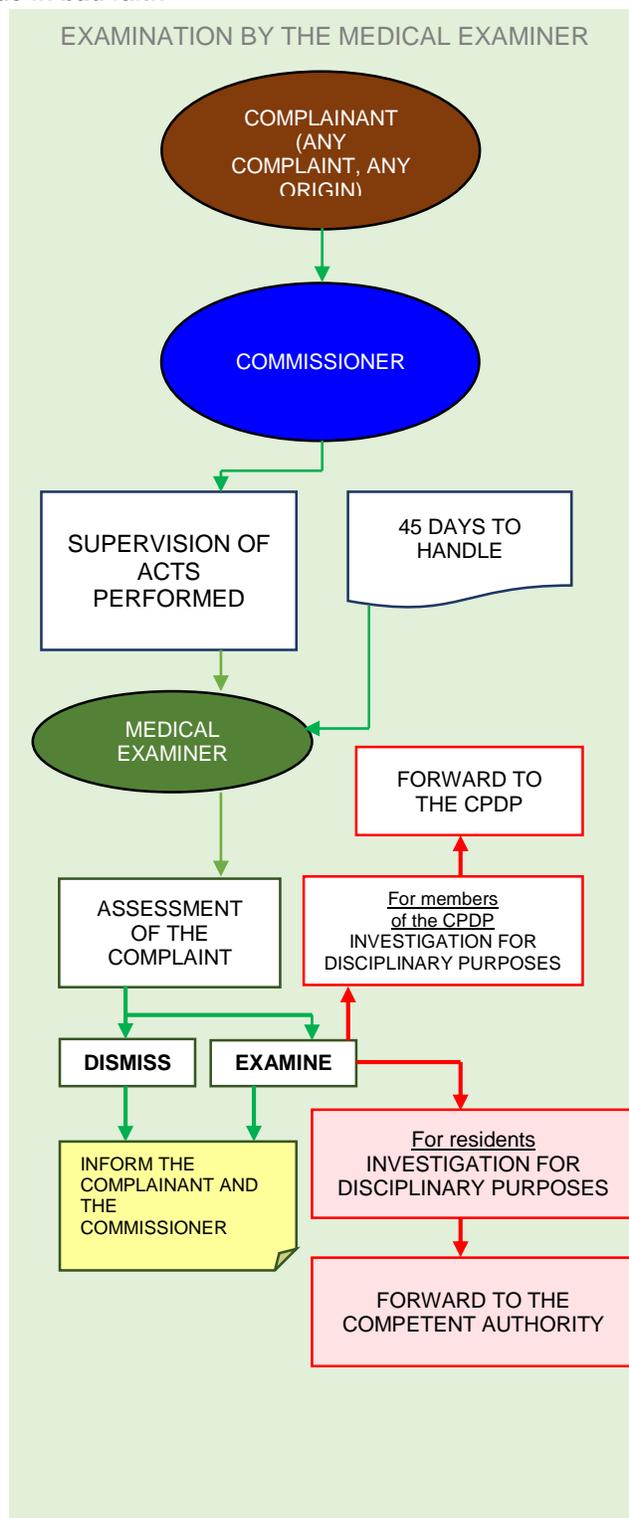
If, after a preliminary assessment, the medical examiner is of the opinion that the complaint pertains to facts liable to involve one or more disciplinary measures, he must forward a copy of the complaint pertaining to a member of the CPDP to the CPDP so that it can investigate it in accordance with the applicable rules of the CIUSSS.

Where the complaint pertains to a medical resident, the medical examiner must forward the complaint to the competent authority, namely, the Associate Dean of Postgraduate Medical Education and Professional Affairs of McGill University, and inform the medical resident. It is expected that the Associate Dean will notify the medical examiner about the results of his investigation.

In all cases, the medical examiner must send a copy of his decision to the professional contemplated in the complaint. He must also inform the complainant and the commissioner thereof.

33. Follow-up report

Every 60 days from the date on which the complainant was informed of the referral of the complaint to a disciplinary committee for investigation, the medical examiner must report to the complainant in writing on the progress of the investigation.



34. Examination by the medical examiner

The medical examiner may, after a preliminary assessment of a complaint, decide to examine it. He must examine the complaint within 45 days following the referral of the complaint by the commissioner.

35. Notice of examination

The medical examiner must, without delay and in writing, inform the complainant and the professional contemplated in the complaint of his decision to examine the complaint. The notice must state that each of the parties may present their observations and indicate how those observations will be gathered. To that end, the medical examiner must select a method favouring the expression of the parties' observations. The notice sent to the professional contemplated in the complaint must mention that the professional has access to the user's complaint record.

36. Conciliation

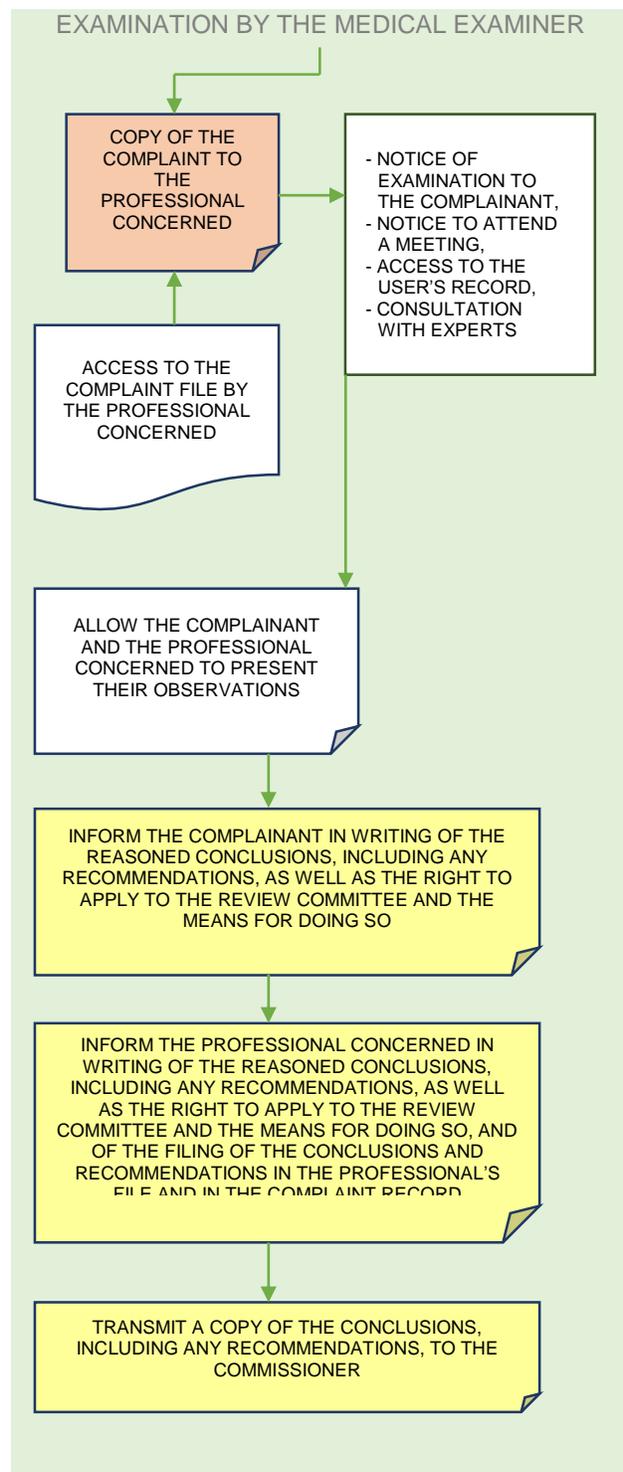
The medical examiner must examine the complaint while attempting to conciliate the interests involved. He must assess the basis for the complaint and, in light of the facts and circumstances having given rise to the complaint, propose to the parties any solution liable to mitigate the consequences thereof or prevent a recurrence. In addition, the medical examiner may make any recommendation he considers appropriate.

37. Calling of meetings

The medical examiner may call any person to a meeting. He may also ask the person to provide any information he considers useful for the examination of the complaint. When the person called to a meeting or asked to provide information by the medical examiner is a member of the staff of the institution or practises his profession at the institution, the person must act upon the medical examiner's request. Any other person must, unless he has a valid reason, attend any meeting called by the medical examiner.

38. User's record

The medical examiner is entitled to access the user's record and to obtain the communication of any information or document contained therein.



39. Consultations

The medical examiner may consult any person at the CIUSSS whose expertise he considers useful. If authorized by the board of directors, he may consult any expert from outside the CIUSSS.

40. Reassessment of the complaint

If, during the examination, he is of the opinion that the facts submitted for his examination are liable to involve one or more disciplinary measures, he must transfer a copy of the complaint and the record so it can be handled in accordance with the applicable rules.

41. Conclusions and time limit

The medical examiner must act with diligence and communicate the conclusions of his examination, including any recommendations, to the complainant no later than 45 days after the date on which the complaint was transferred to him by the commissioner. He must also communicate his conclusions and any recommendations to the professional concerned. He must inform the parties about the remedy they may pursue with the review committee as well as the means for doing so. The medical examiner must send the commissioner a copy of his conclusions and any recommendations. The conclusions and recommendations, if any, of the medical examiner must be placed in the file of the professional concerned by the complaint and in the complaint record.

42. Presumption

If the medical examiner fails to respect the 45-day time limit, he is deemed to have communicated negative conclusions to the complainant. In such a case, the complainant or the professional concerned by the complaint has the right to apply to the review committee.

43. Report or recommendation

The medical examiner may provide the board of directors and, as the case may be, the CPDP with any report he considers useful to prepare in the performance of his functions and, via the board of directors' watchdog committee, he must present any recommendations for the improvement of the medical, dental or pharmaceutical acts performed in the CIUSSS for follow-up by the board of directors or the CPDP. He must send a copy to the commissioner.

44. Appointment of a substitute medical examiner

When the medical examiner is or feels he is in a situation of conflict of interest or conflict of roles, he must notify the commissioner who, in turn, will inform the appropriate authorities so that the examination of the complaint can be transferred to a substitute medical examiner.

SECTION 6 - HANDLING OF APPLICATIONS FOR REVIEW BY THE REVIEW COMMITTEE ESTABLISHED BY THE BOARD OF DIRECTORS

45. Application for review

If the complainant or the professional concerned by the complaint (physician, dentist, pharmacist or medical resident) disagrees with the conclusions transmitted by the medical examiner, or deemed to have been transmitted by the medical examiner, the complainant or the professional may apply for a review by the review committee. This application is made in writing and must be sent to the chair of the review committee, to the attention of the CIUSSS directorate. Where applicable, it must be accompanied by the reasoned conclusions of the medical examiner.

46. Grounds for the application and exclusions

An application for review must pertain to the medical examiner's examination of the complaint. It cannot pertain to the summary dismissal of a complaint or the medical examiner's decision to refer a complaint for a disciplinary investigation.

47. Time limit

In order to give rise to the remedy before the review committee, the review application must be filed within 60 days after receipt of the medical examiner's conclusions or, failing receipt thereof, within 60 days after the expiry of the 45-day time limit. The review committee may accept an application after the time limit if it is of the opinion that it was impossible for the complainant to act sooner.

48. Assistance

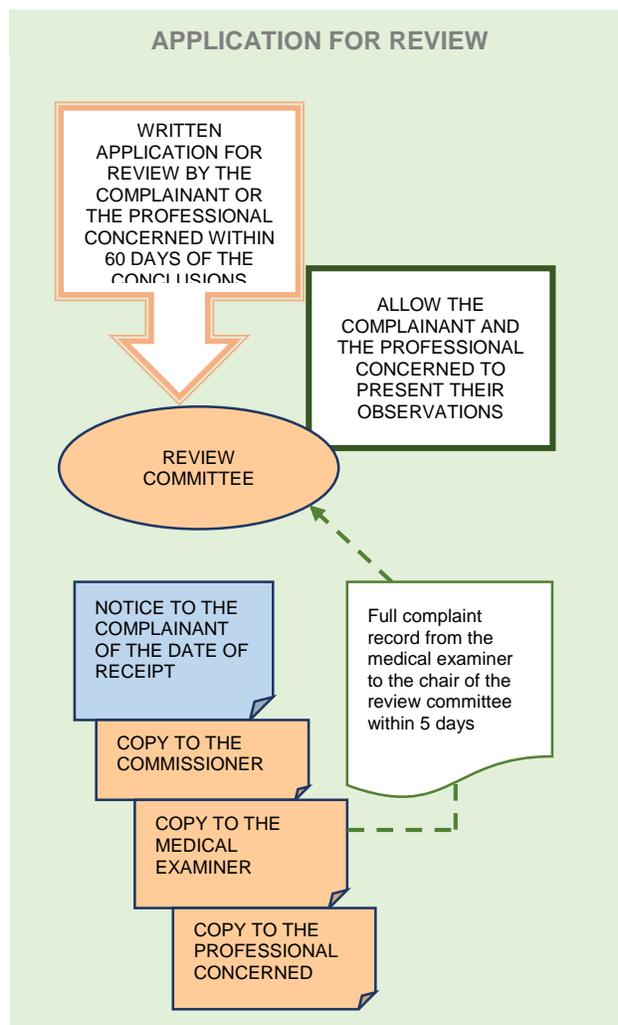
The commissioner must give the necessary assistance or see to it that the necessary assistance is given to a person who wants to submit an application for review. He must, in particular, assist the person in formulating the application and in any step undertaken with the users' committee of the institution or the appropriate community assistance organization.

49. Notice of receipt

The chair of the review committee must inform, in writing and without delay, the party who submitted an application for review of the date on which the application was received. He must send a copy of the application to the other party and to the medical examiner and the commissioner. The notice must state that each of the parties may present their observations and indicate how those observations will be gathered.

50. Complaint record

Within five (5) days after having received the notice of receipt, the medical examiner must send the chair of the review committee the complaint record he has created.



51. Review

The review committee must consider the entire complaint record and determine whether the medical examiner examined the complaint in a diligent and fair manner. Where applicable, it must also ensure that the medical examiner's conclusions respect the rights of the parties as well as the applicable professional standards.

52. Calling of meetings

The review committee may call any person to a meeting. It may also ask the person to provide any information it considers useful for the examination of the complaint. When the person called to a meeting or asked to provide information by the review committee is a member of the staff of the institution or practises his profession at the institution, the person must act upon the review committee's request. Any other person must, unless he has a valid reason, attend any meeting called by the review committee.

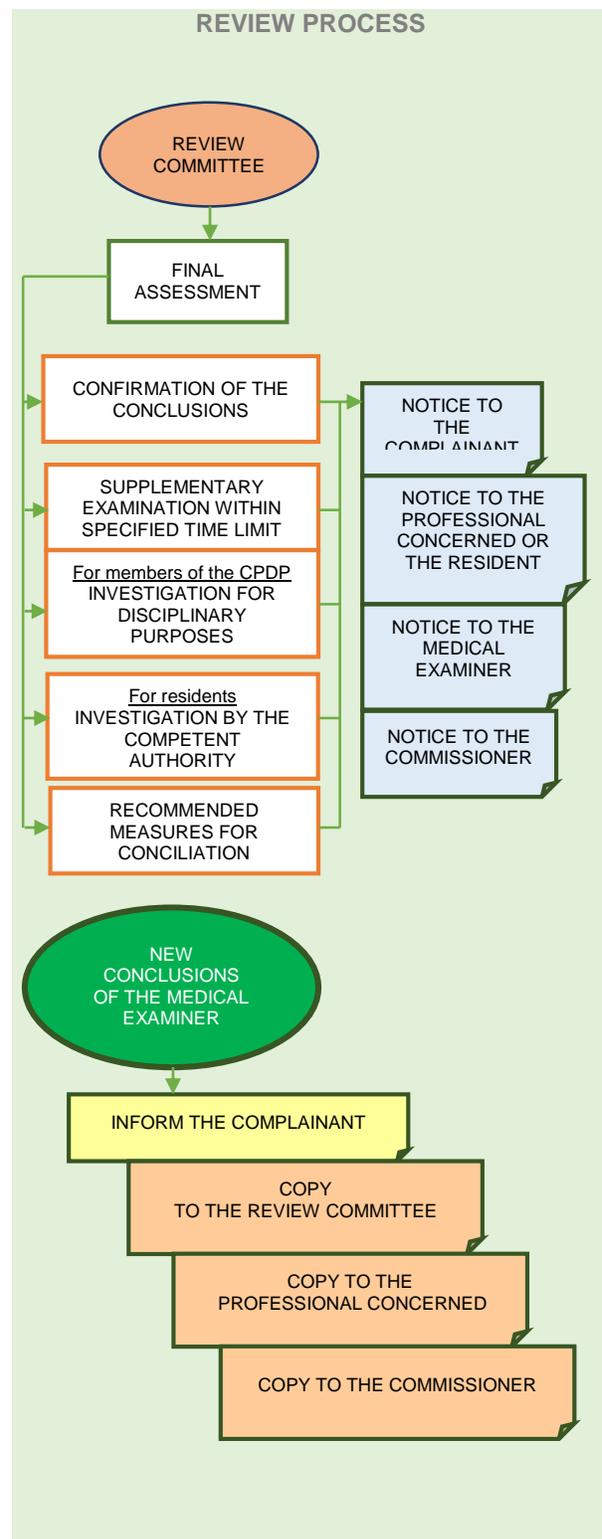
53. User's record

The review committee is entitled to access the user's record and to obtain the communication of any information or document contained therein.

54. Jurisdiction

The review committee must make one of the following decisions:

- confirm the medical examiner's conclusions;
- require that the medical examiner carry out a supplementary examination within the time specified and transmit his new conclusions to the complainant, with a copy to the review committee, to the professional concerned as well as to the commissioner;
- where the complaint concerns a physician, dentist or pharmacist, refer the complaint to the executive of the CPDP for handling in accordance with the disciplinary referral;
- where the complaint concerns a medical resident, refer the complaint to the competent authority for disciplinary action, in accordance with the regulation made under paragraph 2 of section 506 of the ARHSSS;
- recommend any action that is likely to resolve the matter to the medical examiner or, if appropriate, to the parties themselves.



55. Reasoned decision

Within 60 days after receiving an application for review, the review committee must render a reasoned decision and communicate it in writing to the parties concerned. The committee's decision may contain a dissenting opinion. The review committee must send a copy of its decision to the medical examiner and to the commissioner. The committee's decision must be placed in the file of the professional concerned by the complaint and in the complaint record.

56. Final decision

The decision of the review committee is final and cannot be reviewed.

57. Report and recommendation

The review committee may provide the board of directors and, as the case may be, the CPDP with any report or recommendation it considers useful to prepare in the performance of its functions and, via the watchdog committee, it must present any recommendations for the improvement of the medical, dental or pharmaceutical acts performed by the CIUSSS for follow-up by the board of directors or the CPDP. It must send a copy to the medical examiner and to the commissioner.

SECTION 7 - USER'S COMPLAINT RECORD

58. Creation of the complaint record

The complaint record is created and kept by the commissioner, the assistant commissioner or, where appropriate, the medical examiner.

The complaint record is confidential. Access thereto can be granted only in accordance with the ARHSSS.

59. Content of the complaint record

Subject to a regulation made under paragraph 23 of section 505 of the ARHSSS, the complaint record must include any document pertaining to the complaint and its handling that was produced or received by the commissioner, the assistant commissioner and, where applicable, the medical examiner or the review committee.

60. Transmission to the Public Protector

Within five (5) days after receiving a written communication under subparagraph 4 of the second paragraph of section 10 of the *Act respecting the Health and Social Services Ombudsman and amending various legislative provisions* (CQLR c. P-31.1), the commissioner must forward a complete copy of the complaint record to the Public Protector.

61. Prohibition

No document contained in a user's complaint record may be filed in the record of a staff member or a member of the CPDP. However, the reasoned conclusions, together with any recommendations, of a medical examiner as well as any review opinion prepared by the review committee must be placed in the file of the professional concerned by the complaint.

62. Retention and destruction

After a complaint record has been closed, it must be kept for the period provided for in the retention schedule adopted by the Bibliothèque et Archives nationales du Québec (BANQ). At the end of this period, the commissioner must ensure it is destroyed in accordance with the applicable standards.

SECTION 8 - REPORT ON THE APPLICATION OF THE COMPLAINT EXAMINATION PROCEDURE, ON USER SATISFACTION AND ON THE ENFORCEMENT OF USER RIGHTS

63. Annual report by the institution

Pursuant to section 53 of the *Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies* (CQLR c. O-7.2), once a year and whenever so required by the Minister, the board of directors must report to the Minister on the application of the complaint examination procedure, on user satisfaction and on the enforcement of user rights. The report must incorporate the commissioner's activities summary, the medical examiner's report and the review committee's report, in accordance with the ARHSSS.

No later than the date set by the board of directors, the commissioner must prepare the report referred to in section 76.11 of the ARHSSS.

64. Annual report of the commissioner

Once a year, no later than May 31, the commissioner must report to the board of directors on the application of the complaint examination procedure, on user satisfaction and on the enforcement of user rights, including a description of the number of complaints received, dismissed upon summary examination, examined, refused or abandoned, and the reasons for those complaints. The annual report must indicate the time taken for examinations, the actions taken following examinations as well as the number of complaints that gave rise to an application to the Public Protector and the reasons for those complaints.

The annual report must also contain the commissioner's recommendations to improve user satisfaction and foster the enforcement of user rights. The report may contain any other recommendation the commissioner considers appropriate.

65. Annual report of the medical examiner

Once a year, no later than May 31, the medical examiner must report to the board of directors and, where applicable, to the CPDP on the number of complaints referred to him, the number of those complaints he dismissed upon summary examination, the number of those complaints he referred for disciplinary purposes as well as the reasons for the complaints examined by him. The annual report must also contain the medical examiner's recommendations for improving the quality of the care and services provided. The report may contain any other recommendation the medical examiner considers appropriate. A copy of the report must be sent to the commissioner so that its contents may be incorporated in the report the CIUSSS is required to submit to the Minister.

66. Annual report of the review committee

Once a year, no later than May 31, the review committee must report to the board of directors with, where applicable, a copy of the report to the CPDP, on the number of applications submitted to it, the reasons on which the applications were based, the decisions it rendered as well as time taken for considering applications. The annual report may also contain the review committee's recommendations for improving the quality of the care and services provided. The report may contain any other recommendation the committee considers appropriate. A copy of the report must be sent to the commissioner so that its contents may be incorporated in the report the CIUSSS is required to submit to the Minister and to the Public Protector.

67. Report upon request

Whenever so required by the Minister, the board of directors must report to the Minister on any item of information referred to in section 76.13 of the ARHSSS recorded since the last report and on any matter relating to the application of the complaint examination procedure, including the provisions applicable to any user complaint concerning a physician, dentist or pharmacist.

At the same time, a copy of this report must be sent to the Public Protector.

SECTION 9 - FINAL PROVISIONS

68. Reprisals

The commissioner, the assistant commissioner, the medical examiner or the review committee must intervene, in the manner he or it considers the most appropriate and without delay, when he or it is informed that a complainant or a person who intends to make a complaint is the subject of reprisals of any kind whatsoever.

69. Coming into force

This By-law came into force on December 1, 2016 after having been adopted by the board of directors of the CIUSSS du Centre-Ouest-de-l'Île-de-Montréal.

70. Revision

This By-law must be revised every three (3) years after it comes into force or when required as a result of legislative amendments.

SCHEDULE I

OATH

DECLARATION UNDER OATH

I declare under oath that I will fulfil my functions as [redacted] arising from the application of the *Act respecting health services and social services* (CQLR c. S-4.2) with honesty, impartiality and justice. I further declare under oath that I will not reveal or disclose, unless authorized by law, any confidential information that may come to my knowledge in the exercise of my functions within the CIUSSS du Centre-Ouest-de-l'Île-de-Montréal.

Signed in the presence of a witness, in Montreal:

First name and family name (in block letters)

This ___ day of _____ 20 _____

Signature

Declaration made under oath before me in Montreal:

This ___ day of _____ 20 _____

Signature of the individual empowered to receive oaths