

By-Law on
Patient complaint examination procedure



Adopted by the Members of the
Board of Directors of the Douglas Hospital
on April 18, 2007
in accordance with article 29
of an Act Respecting Health Services and Social Services
R.S.Q., c. S-4.2

and

Revised by the Board of Directors
on March 18, 2009

NOTE TO READER:

With the authorization of the authors, Ms. Sonia Amziane, legal council for the AQESSS (Quebec Association of Health and Social Services Institutions), with the collaboration of Mr. Sylvain Poirier of the legal firm of Heenan Blaikie, this document was adapted from the document published by the AQESSS, updated in 2007, of the ***Projet-Type de Règlement sur la procédure d'examen des plaintes des usagers***, developed by the Quebec Association of CLSCs and CHSLDs and the Quebec Hospital Association, 2002.

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FOREWORD

WHEREAS the purpose for being of the services of the Douglas is the person who receives these services;

WHEREAS respect for patients and acknowledgement of their rights and freedoms must guide the actions taken on their behalf;

WHEREAS patients must, in any intervention, be treated with courtesy, fairness and understanding, with respect for their dignity, autonomy and needs;

WHEREAS one function of the Douglas is to ensure the delivery of quality, safe, continuous and accessible health and social services that respect the rights of individuals and their spiritual needs and to reduce or resolve health and well being problems of the population;

WHEREAS every person is entitled to receive adequate health and social services on the medical, human and social levels, with continuity and in a personalized manner, while taking into account the legislative and regulatory provisions governing the organization and operation of the Douglas as well as its human, physical and financial resources;

WHEREAS the patient has the right to file a complaint concerning the services he received, ought to have received, is receiving or requires from the Douglas, an intermediary or family-type resource or from any other organization, partnership or person to which or whom the Douglas has recourse, in particular by an agreement under sections 108 and 108.1 of the Act for the provision of those services, unless it is a complaint concerning a physician, dentist, pharmacist or a resident working, for such an organization, such a company or such person, in which case the complaint will be examined by the Council of Physicians, Dentists and Pharmacists of the concerned Institution;

WHEREAS the patient who so requires, has the right to assistance in preparing a complaint and in all other proceedings with respect thereto;

WHEREAS the patient has the right to a responsible, confidential and diligent examination of his complaint, without risk of reprisal;

WHEREAS it is incumbent upon the Board of Directors of the Douglas to ensure the quality of services, the respect of patients' rights and the diligent handling of their complaints;

WHEREAS the Board of Directors must draft a By-Law establishing a patient complaint examination procedure;

UPON MOTION DULY MADE AND SECONDED, IT WAS RESOLVED:

THAT the Complaint Examination Procedure By-Law **BE ADOPTED** as submitted in appendix **(A-HPTL-2007.04.18-5.3)**.

SECTION 1 – GENERAL PROVISIONS

1. Purpose and scope of application

This By-Law is intended to establish the procedure for implementing procedures in respect of the examination of complaints by the Douglas, in accordance with *An Act Respecting Health Services and Social Services* (R.S.Q., c. S-4.2).

2. Foreword

The foreword forms an integral part of this By-Law.

3. Title

The present By-Law may be designated as the “Patient Complaint Examination Procedure”.

4. Responsibility for application and functions

The Commissioner or his substitute is appointed by the Board of Directors as the Local Complaints and Service Quality Commissioner of the Douglas. He is answerable to the Board of Directors for the enforcement of patients' rights, for their satisfaction and for the diligent handling of their complaints. To that end, he exercises exclusively the functions provided for in the Act such as, namely, to promote the complaint examination process. Within the framework of his functions, the Commissioner takes action of his own initiative when apprised of facts and when there are reasonable grounds to believe that the rights of a patient or a group of patients are not respected.

The Commissioner takes the necessary steps to make sure that the information needed for the formulation and handling of a complaint is provided to the public (promotion of the complaint process) and to intervening parties.

The Medical Complaints Examiner or his substitute, designated by the Board of Directors upon recommendation of the CPDP, examines any complaint lodged by a patient or any other person, against a physician, a dentist, a pharmacist or a medical resident practicing in the Institution.

The Complaints Review Committee is mandated to review the process used for examining a patient's complaint by the Medical Complaints Examiner. Its mandate does not involve a complaint referred for study for disciplinary purposes or when a complaint has been dismissed by the Medical Complaints Examiner when deemed frivolous, vexatious or made in bad faith.

They all benefit from immunity which prevents them from being sued for reasons of omissions or actions taken in good faith in fulfilling their functions.

They may not be compelled to make a deposition in a judicial proceeding or 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 reveal any conflict of interests, real or apparent. In particular, they must do so if they, or any relative, have a personal or business link with the persons involved in the complaint.

They must, in accordance with the Act, take an oath as provided for in schedule I of the present By-Law before they begin in their functions.

5. Definitions

In the present By-Law, unless otherwise specified, the following expressions or terms mean:

- a) **Act** – an *Act Respecting Health Services and Social Services* (R.S.Q., c. S-4.2);
- b) **Complaint** – any verbal or written expression of dissatisfaction addressed to the Commissioner regarding the health or social services 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 section 108 or 108.1, for the provision of those services, except in the case of a complaint concerning a physician, dentist or pharmacist, or a resident, who practices with such an organization, partnership or person;
- c) **Complaint concerning a physician, dentist, pharmacist or resident** – for the purposes of section 5, a complaint is defined as any written or verbal expression of dissatisfaction addressed to the Commissioner by any person with regard to the conduct, behaviour or competency of a physician, a dentist, a pharmacist or a medical resident, as well as a dissatisfaction with regard to the quality of an act carried out within the professional framework of such persons; a complaint is also defined as the expression of a dissatisfaction or the allegation of a nonobservance of the Institution By-Laws, or the non observance of the terms of the resolution related to the appointment or renewal of appointment of a physician, dentist or pharmacist;
- d) **Complaints Review Committee** – the committee set up by the Board of Directors to review the process used by the Medical Complaints Examiner to examine a complaint lodged against a physician, a dentist, a pharmacist or a resident at the request of the patient or the professional involved;
- e) **CPDP** – the Council of Physicians, Dentists and Pharmacists of the Institution;
- f) **Designated Regional Organization** – *C.A.A.P.-Île de Montréal* is an organization mandated by the Ministry in accordance with article 76.6 of the Act, to assist and accompany, upon request, a patient who wishes to file a complaint with an institution or the Health and Social Services Ombudsman, including when the complaint is directed to the Council of Physicians, Dentists and Pharmacists of the Institution for a study for disciplinary purposes or to the Complaints Review Committee;
- g) **Director General** – the Director General of the Institution;
- h) **External resource** – 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 section 108 or 108.1, for the provision of those services, except in the case of a complaint concerning a physician, dentist or pharmacist, or a resident, who practises with such an organization, partnership or person;
- i) **Health and Social Services Ombudsman** – the Public Protector appointed by the National Assembly in accordance with the Public Protector Act (R.S.Q., c. P-32) who exercises the functions of the Health and Social Services Ombudsman (An Act Respecting the Health and Social Services Ombudsman, R.S.Q., c. P-31.1);
- j) **Institution** – the Douglas Hospital, including any intermediate resource or family type resource, which are organized under its responsibility, the Douglas Hospital Foundation as well as the Douglas Hospital Research Centre;

- k) **Intervention** – any action taken by the Commissioner of his own initiative or at the request of a third party when apprised of facts and when there are reasonable grounds to believe that the rights of a patient or a group of patients are not respected. The handling of an intervention can be done according to the same modalities as used for the examination of a complaint;
- l) **Local Complaints and Service Quality Commissioner (formerly Ombudsman)** – appointed by the Board of Directors of the institution to which he reports, hereinafter designated by the term Commissioner;
- m) **Medical Complaints Examiner** – the physician appointed by the Board of Directors in accordance with article 42 of the Act;
- n) **Minister** – the Minister of Health and Social Services;
- o) **Patient** – in conformity with the Act, any person who has received, ought to have received, receives or requires services from the Institution; this term may include, if applicable, any patient representative as covered under article 12 of the Act, as well as any heir or legal representative of a deceased patient. For the purpose of section 4, the term “patient” also includes any person other than a patient, who formulates a complaint concerning a physician, dentist, pharmacist or a resident, including any human subject involved in research;
- p) **Patient representative** – any person recognized as a patient representative as per article 12 of the Act and article 15 of the Quebec Civil Code;
- q) **Professional** – person who holds a permit issued by an order and who is entered on the roll of the latter;
- r) **Services** – health services or social services provided by the Institution or using telehealth, or 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 section 108 or 108.1. Within the framework of these agreements, the examination of complaints does not include services provided by a physician, dentist, pharmacist or a resident who practices with such an organization, partnership or person;
- s) **Staff** – any member of the staff of the Institution, the Research Centre or the Foundation, trainee, volunteer or linked by contract, working in the Institution as well as any physician, dentist, pharmacist or resident who intervenes with a patient in the exercise of his functions or profession;
- t) **Substitute Local Complaints and Service Quality Commissioner or Substitute Commissioner** – the Substitute Commissioner intervenes at the request of the Commissioner as soon as he feels he is in a real or potential conflict of interests, conflict of roles or in the case of planned or unforeseen absences. The Board of Directors appoints the Substitute Commissioner on an annual basis;
- u) **Substitute Medical Complaints Examiner** – the substitute Medical Complaints Examiner intervenes at the request of the Commissioner as soon as the appointed Medical Complaints Examiner feels he is in a real or potential conflict of interests or in a conflict of role. He may also intervene in the absence of the Medical Complaints Examiner in order to respect delays. The Board of Directors appoints, on an annual basis, substitute Medical Complaints Examiners upon recommendation by the Council of Physicians, Dentists and Pharmacists;
- v) **Users’ Committee** – the committee implemented in a psychiatric care centre who has, as one of its functions, to accompany and assist, upon request, a patient in any steps he wishes to take in order to file a complaint;

- w) **Verbal complaint** – any complaint that does not fit the requirements of a written complaint is deemed to be verbal;
- x) **Watchdog and Quality Committee** – the committee set up by the Douglas Hospital whose main function is to ensure the Board of Directors of the follow-up of the recommendations of the Commissioner or the Health and Social Services Ombudsman with regard to complaints and interventions made within their respective mandate;
- y) **Written complaint** – a complaint is deemed written when it is produced on a medium which allows for the recognition of the complainant's signature. A complaint, even written, that does not bare the signature of the author, is not considered a written complaint;

SECTION 2 – FORMULATING AND RECEIVING A COMPLAINT

6. Formulating a complaint

A patient may make a written or verbal complaint. This complaint must be referred to the Commissioner. When a patient shows an intention to file a complaint, he is referred to the Commissioner. To that end, any intervening party must provide the patient with the information allowing him to have quick access to the Commissioner.

7. Routing

Any intervening party receiving a written complaint from a patient must forward it promptly to the Commissioner.

In exceptional cases, such as in an emergency or when the patient's state warrants it, an intervening party may write down the verbal complaint of the patient and forward it to the Commissioner without delay.

8. Content of the complaint

A complaint must at least contain the following information according to pertinence:

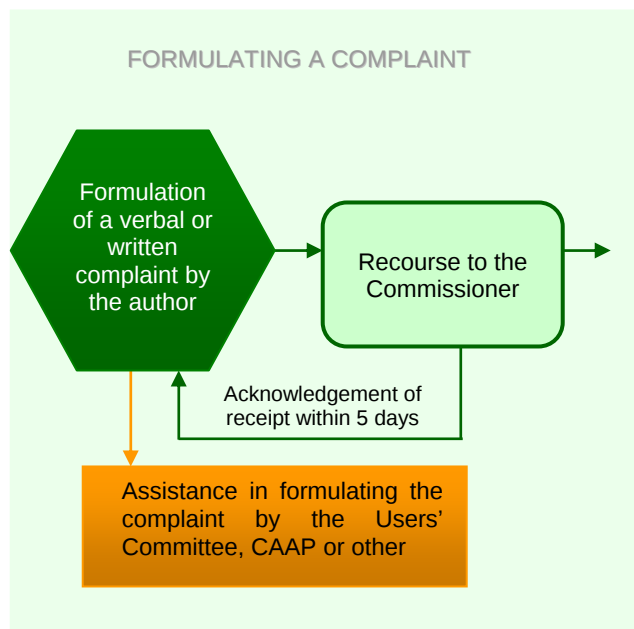
- ⇒ the date the complaint is made;
- ⇒ the full name, address and telephone number of the patient involved;
- ⇒ the clinical service or the unit involved in the complaint, if applicable;
- ⇒ in the case where the complaint is filed by the patient representative, the full name, address and telephone number of this representative;
- ⇒ the full name, address and telephone number of the person, the Users' Committee or the community organization assisting the patient, if applicable;
- ⇒ the date the event took place which led to the complaint;
- ⇒ the subject of the patient's dissatisfaction;
- ⇒ a statement of the facts;
- ⇒ expected outcomes, if applicable.

9. Assistance

The Commissioner must assist or make sure that assistance is provided to the patient in formulating the complaint or with any steps taken in respect thereof, including with the Complaints Review Committee.

The Commissioner must inform the patient that the Users' Committee or the competent regional organization (C.A.A.P.) can provide assistance and support.

Any patient has the right to be supported and assisted by any person of his choice.



10. Information to the patient

The Commissioner shall provide, upon request from the patient, any information concerning the application of the complaint examination procedure. As well, he must inform the patient regarding the legal protection afforded to any person who cooperates in the examination of a complaint.

11. Receipt of the complaint

On receipt of the complaint, the Commissioner records the date of receipt on the form provided for such purposes and opens a complaint record.

12. Notice of receipt

The Commissioner must, within five days following the date of receipt of the written or verbal complaint, inform the patient in writing, unless he has informed the patient of his conclusions within 72 hours of receipt.

This notice must indicate:

- ⇒ the date of receipt of the complaint;
- ⇒ where the complaint concerns a physician, dentist, pharmacist or resident, the date of its transfer to the Medical Complaints Examiner;
- ⇒ the name of the Users' Committee of the Institution and of the assistance organization of the Montréal region;
- ⇒ the time limits prescribed by law for examining the complaint, which are 45 calendar days following the date of receipt of the complaint or, if applicable, the date of the transfer to the Medical Complaints Examiner;
- ⇒ that if the Commissioner fails to communicate the outcome of the complaint examination within 45 days, the patient shall have a right of recourse to the Health and Social Services Ombudsman, or in the event of such failure by the Medical Complaints Examiner, a right of recourse to the Complaints Review Committee;
- ⇒ in all cases, the recourses available to the patient who disagrees with the conclusions of the Commissioner or, if applicable, the Medical Complaints Examiner.

13. Transfer of the complaint by the Commissioner

When the complaint concerns a physician, dentist, pharmacist or medical resident, the Commissioner shall immediately transfer the complaint to the Medical Complaints Examiner. The Commissioner shall transfer any writings or documents in respect of such complaint.

However, when the patient's complaint pertains to administrative or organizational problems involving medical, dental or pharmaceutical services, the complaint is examined by the Commissioner in accordance with the provisions of section 3, unless the Commissioner deems, after consulting with the Medical Complaints Examiner, that such complaint concerns one or more physicians, dentists, pharmacists or residents, in which case the complaint will be transferred to the Medical Complaints Examiner.

14. Notice to an outside resource

In the case of complaints in respect of services given by an outside resource to which the Institution has recourse for the provision of services, the Commissioner shall inform the authority concerned by written notice or, if he is of the opinion there is no prejudice to the patient, send a copy of the complaint. In case of a verbal complaint, the Commissioner informs the authority concerned verbally.

SECTION 3 – HANDLING BY THE COMMISSIONER OF A COMPLAINT CONCERNING THE INSTITUTION

(See Schedule II: Diagram of the complaint examination procedure and the improvement of the quality of services by the Commissioner)

15. Admissibility of the complaint

The Commissioner, in keeping with his jurisdiction, shall assess the admissibility of the complaint by ensuring that it is made by a patient and pertains to services offered by the Institution or by an outside resource or to the participation within a research protocol.

16. Jurisdiction

When a complaint or one of the reasons for the complaint is not within the jurisdiction of the Institution, the Commissioner may, with the consent of the person concerned, inform the competent authority.

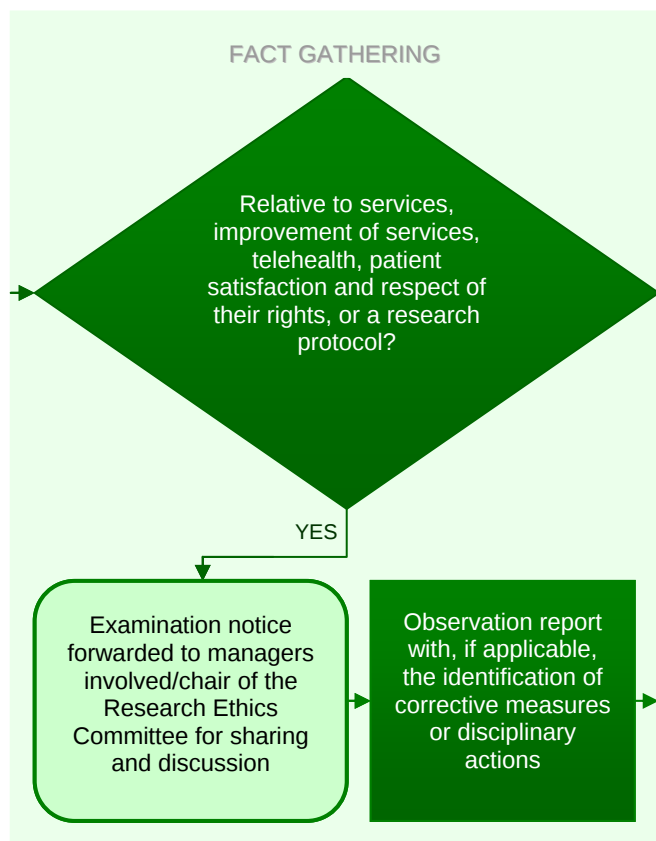
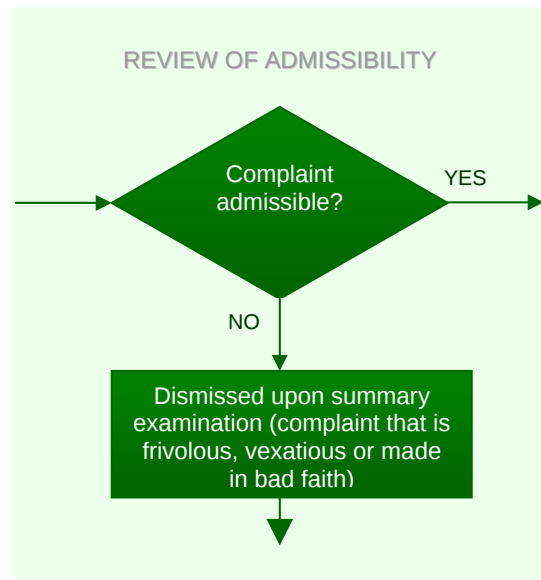
When the complaint involves organizational or administrative aspects of medical services, the Commissioner solicits the collaboration of the Medical Complaints Examiner in identifying corrective measures.

17. Frivolous, vexatious or complaint made in bad faith

The Commissioner may, on summary examination, dismiss any complaint that he deems to be frivolous, vexatious or made in bad faith. He shall so inform the patient and, if the complaint is in writing, send written notice. He files a copy of his decision in the patient's complaint record.

18. Notice of examination

The Commissioner shall promptly send a written notice to the patient, and, as the case may be, to the department head or program manager concerned, the chair of the Research Ethics Committee or the highest authority of the outside resource that is the subject of a complaint, of his decision to examine such complaint. The notice must state that each party may present arguments and shall set out the procedures as to how such arguments may be made. For these purposes, the Commissioner shall establish procedures that permit all parties to present their arguments as easily as possible. In the case of a system failure (work or organizational process malfunction), managers involved or the chair of the Research Ethics Committee present their observations within a report including identified corrective measures if applicable.



For any complaint dealing with the practice or conduct of a personnel member of the Institution or an outside resource, the examination is conducted in accordance with the provisions of Section 4 of the present By-Law.

19. Mediation

The Commissioner who examines a complaint acts as a mediator. The Commissioner must weigh the merits of the complaint and, based on the facts and circumstances that gave rise to such complaint, propose to the persons concerned any solution likely to mitigate the consequences or avoid its repetition. The Commissioner may, moreover, make any recommendation he deems appropriate.

20. Notice of meeting

The Commissioner may call any person to a meeting and request any information that, in his opinion, would be useful to the examination of the complaint. When the person who is summoned by the Commissioner or required to provide information is a manager or an employee of the Institution or practices his profession in the Institution, such person must comply with the Commissioner's request. Except with a valid excuse, any other person must attend a meeting called by the Commissioner.

21. Patient's record

The Commissioner shall have access to the patient's record and to any information or document contained therein.

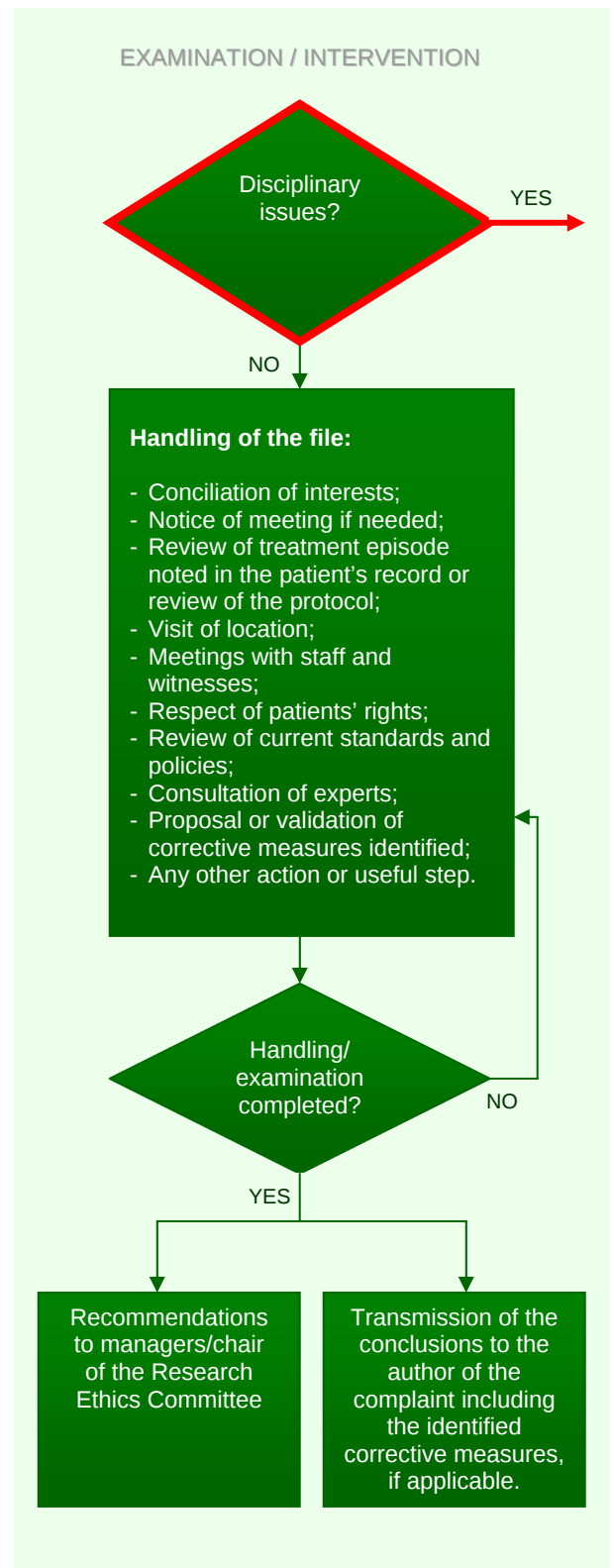
22. Consultations

The Commissioner may consult any internal person whose expertise is deemed useful. He may also consult any outside expert. External consultation by the Commissioner is exercised within the rules set by the Board of Directors.

23. Conclusions and time limits

The Commissioner must diligently examine the complaint. The Commissioner must communicate the conclusion of his examination to the complainant no later than 45 days following receipt of such complaint, accompanied, if applicable, by the recommendations he transmitted to the competent authorities. In the case of a written complaint, this information is provided in writing.

He must also inform the patient of the recourses he may exercise before the Health and Social Services Ombudsman and how to exercise these recourses.



24. Presumption

When the Commissioner fails to respect the time limit stipulated in article 23, he is deemed to have communicated negative conclusions to the complainant. This person may then exercise his right of recourse to the Health and Social Services Ombudsman.

25. Refusal to act upon recommendations, recurrence or severity of facts

When the department or service manager concerned by the complaint within the Institution, or as the case may be, when the highest authority of the outside resource that is the subject of a complaint does not intend to act upon a recommendation made in the Commissioner's conclusions, he informs the Director General and can submit to the Board of Directors any report or recommendation pertaining to the improvement of the quality of the services as well as to patient satisfaction and respect of their rights.

The Board of Directors shall examine any recommendation or report transmitted by the Commissioner and makes the decision it deems appropriate under the circumstances, taking into account, if applicable, the recommendations of the Watchdog and Quality Committee.

26. Report or recommendations

The Commissioner may transmit to the Board of Directors any report or recommendations pertaining to the improvement of the quality of the services as well as to patient satisfaction and enforcement of their rights.

The Board of Directors shall examine any recommendation or report transmitted by the Commissioner and makes the decision it deems appropriate under the circumstances, taking into account, if applicable, the recommendations of the Watchdog and Quality Committee.

SECTION 4 – HANDLING OF A COMPLAINT RELATED TO DISCIPLINARY MATTERS NOT INVOLVING THE MEDICAL COMPLAINTS EXAMINER

27. Disciplinary issues

During the course of the examination, where a practice or conduct of an employee raises questions of a disciplinary nature, the Commissioner shall inform the competent authority and the Human Resources Director within the Institution or the highest authority of the outside resource, organization, society or person with the highest authority for the service who is the subject of a complaint, for an in-depth review, follow-up and appropriate action. The Commissioner may make a recommendation to this effect in his conclusions.

28. Examination of disciplinary issues

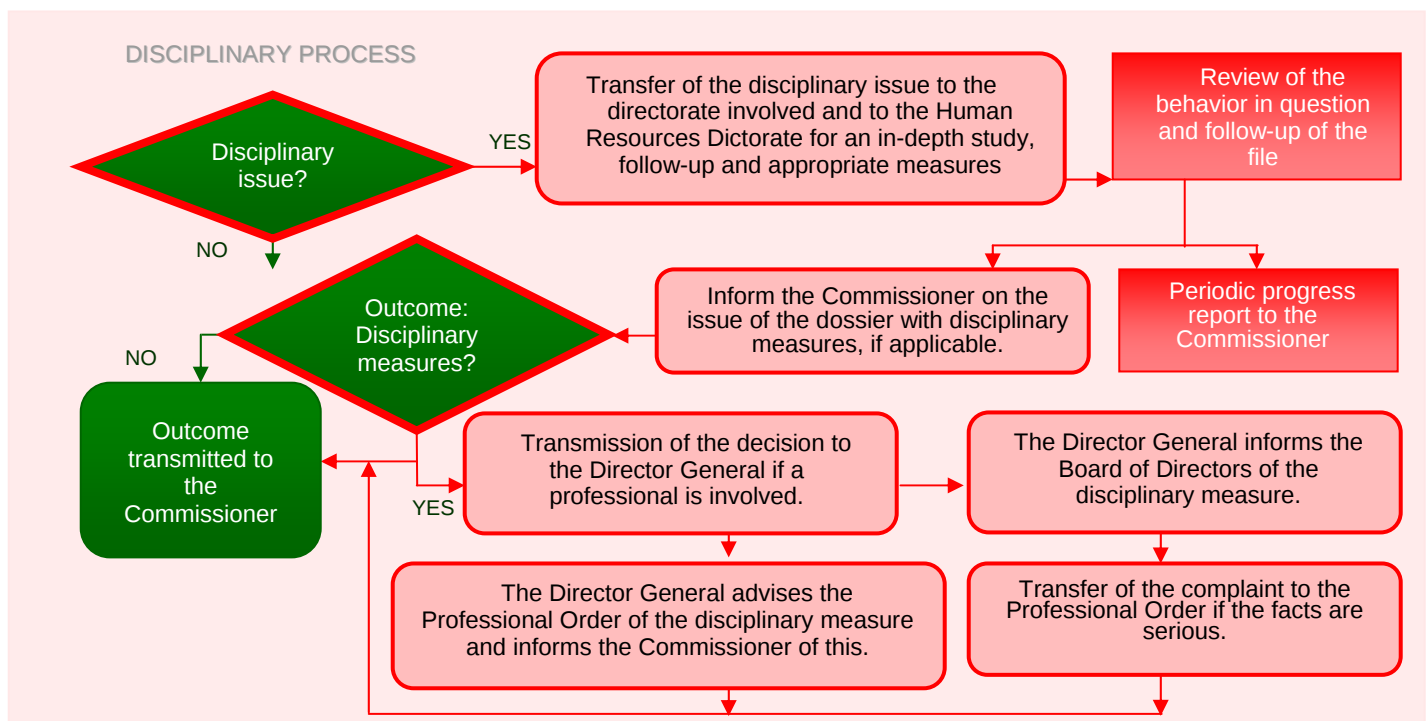
The authority contemplated by article 27 must diligently examine the complaint and from time to time report to the Commissioner on the progress of the investigation.

The Commissioner must be informed of the outcome of the case and of any disciplinary measure taken against the employee concerned. The Commissioner must in turn inform the patient. For any disciplinary measure involving a professional, the Director General must be informed in order to fulfil the obligations set forth in article 29.

29. Disciplinary measures

When disciplinary measures are taken against a professional, the Director General must then inform the professional order in writing and inform the Commissioner. The latter informs the patient in writing of the disciplinary measures taken.

If the Board of Directors deems that the severity of the complaint against an employee who is a member of a professional order warrants it, it may transmit it to the professional order involved and inform the Commissioner. The latter informs the patient in writing of the decision of the Board of Directors.



SECTION 5 – HANDLING BY THE MEDICAL COMPLAINTS EXAMINER OF A COMPLAINT FILED AGAINST A PHYSICIAN, A DENTIST, A PHARMACIST OR A MEDICAL RESIDENT

(See Schedule III: Diagram for handling of a complaint (member of the CPDP))

30. Frivolous, vexatious or complaint made in bad faith

The Medical Complaints Examiner may, on summary examination, dismiss a complaint if, in his opinion, it is frivolous, vexatious or made in bad faith. He so informs the complainant and, if the complaint is in writing, sends a written notice. He files a copy of his decision in the complaint record and the Commissioner shall also be informed.

31. Preliminary evaluation

The Medical Complaints Examiner must, as soon as possible after the complaint is brought to his attention, proceed with the preliminary evaluation of the complaint in order to determine the most appropriate method of handling the complaint in light of the available information.

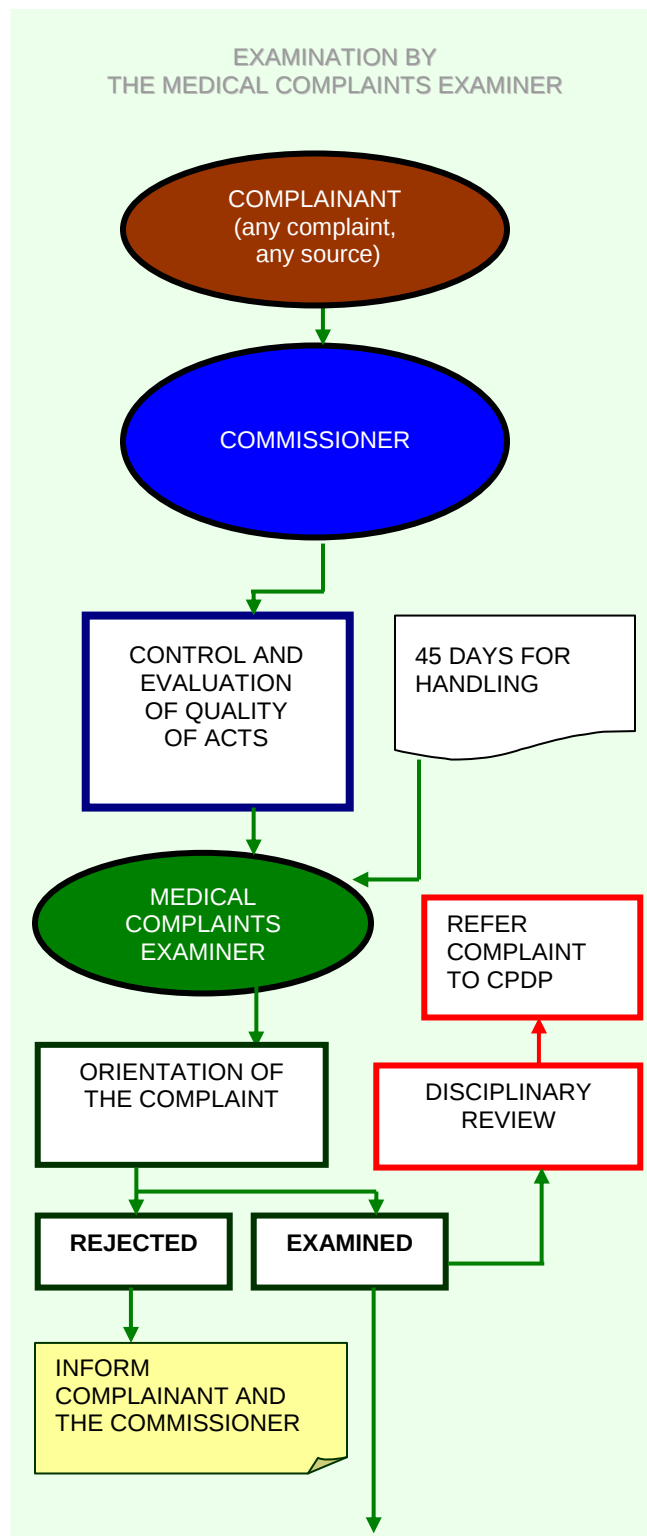
Where a complaint involves administrative or organizational problems involving medical, dental or pharmaceutical services, the Commissioner and the Medical Complaints Examiner can collaborate in assessing the complaint.

32. Disciplinary sanctions

After preliminary evaluation, the Medical Complaints Examiner may, if, in his opinion, the complaint pertains to facts that could entail the imposition of a disciplinary sanction, decide to send the complaint concerning a member of the Council of Physicians, Dentists and Pharmacists to such Council for examination in accordance with the rules in effect at the Institution. If the complaint concerns a resident, he refers the complaint to the proper authority. In all cases, the Medical Complaints Examiner must transmit a copy of his decision to the person named in the complaint. The Medical Complaints Examiner shall also inform the complainant and the Commissioner.

33. Follow-up report

The Medical Complaints Examiner must, every 60 days from the date on which the complainant was informed that the complaint was referred to a disciplinary committee for examination, inform the complainant in writing on the progress of the investigation.



34. Examination by the Medical Complaints Examiner

The Medical Complaints Examiner may, after preliminary evaluation of a complaint, decide to proceed with his own examination in the manner described in articles 35 to 42.

35. Notice of examination

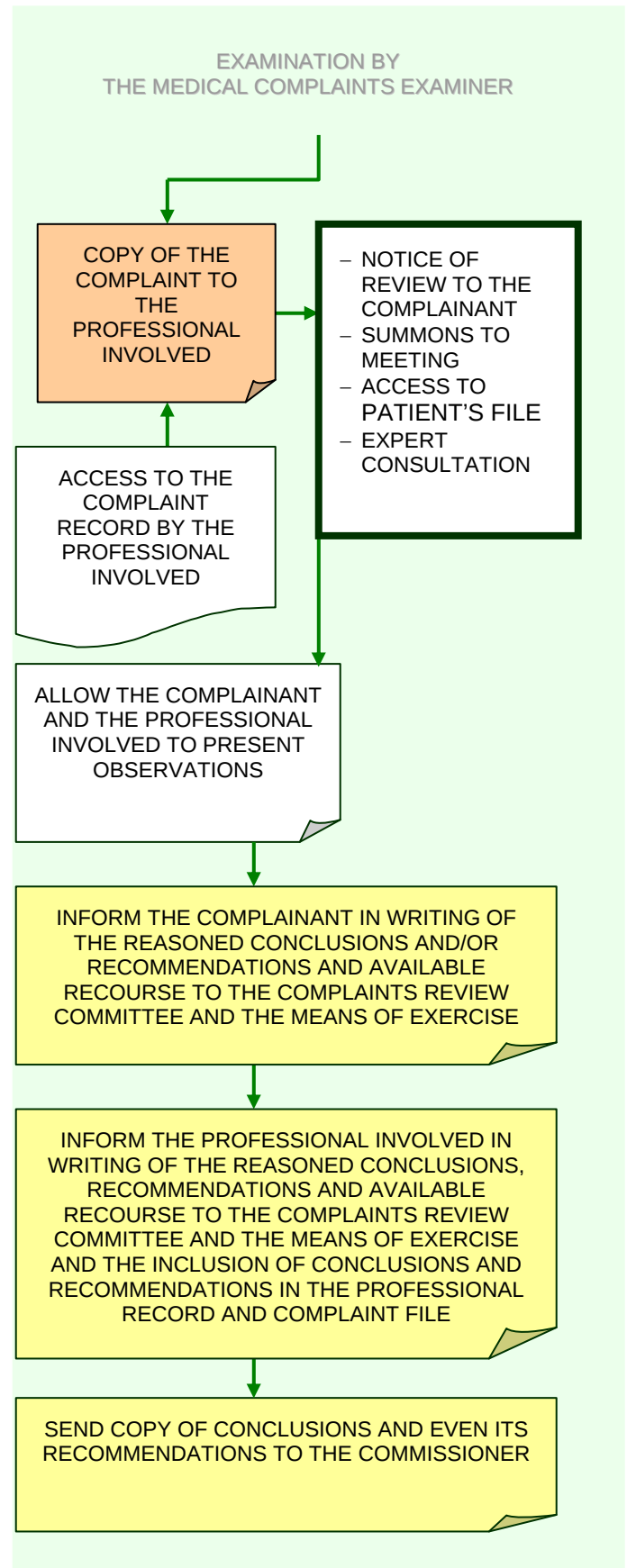
The Medical Complaints Examiner shall promptly send a written notification to the complainant as well as to the professional involved of his decision to examine such complaint. The notice must state that each party may present his arguments and shall set out the procedures as to how such arguments may be made. For these purposes, the Medical Complaints Examiner shall establish procedures that permit all parties to present their arguments as easily as possible. The notice sent to the professional named in the complaint must state that such person may access the patient's complaint record and set out the modalities to that end.

36. Mediation

The Medical Complaints Examiner who examines a complaint acts as a mediator. The Medical Complaints Examiner must weigh the merits of the complaint and, based on the facts and circumstances that gave rise to such complaint, propose to the persons concerned any solution likely to mitigate the consequences or avoid its repetition. The Medical Complaints Examiner may, moreover, make any recommendation he deems appropriate.

37. Notice of meeting

The Medical Complaints Examiner may call any person to a meeting. He may also request any person to provide information that, in his opinion, would be useful to the examination of the complaint. When the person who is summoned by the Medical Complaints Examiner or required to provide information is an employee of the Institution or practices his profession in the Institution, such person must comply with the Medical Complaints Examiner's request. Except with a valid excuse, any other person must attend a meeting called by the Medical Complaints Examiner.



38. Patient's record

The Medical Complaints Examiner shall have access to the patient's record and to any information or document contained therein.

39. Consultations

The Medical Complaints Examiner may consult any person whose expertise is deemed useful. If the Board of Directors so authorizes, the Medical Complaints Examiner may consult any outside expert.

40. Transfer of the complaint

If the Medical Complaints Examiner deems that the facts submitted to him for examination could entail the imposition of disciplinary sanctions, he may, during the examination, transfer the complaint to be handled in accordance with article 32.

41. Conclusions and time limit

The Medical Complaints Examiner must proceed diligently and communicate the conclusions of his examination and, if applicable, his recommendations to the complainant no later than 45 days following the date on which the complaint was transferred to him by the Commissioner. He must also inform the professional involved in the complaint of his conclusions and, if applicable, his recommendations. He must inform the parties of the right of recourse they may exercise before the Complaints Review Committee and how to exercise this right. The Medical Complaints Examiner shall transmit a copy of his conclusions and, if applicable, his recommendations to the Commissioner. The conclusions and, if applicable, his recommendations must be filed in the record of the professional involved in the complaint as well as in the complaint record.

42. Presumption

When the Medical Complaints Examiner fails to respect the time limit set out in article 41, he shall be deemed to have transmitted negative conclusions to the complainant. This person or the professional involved in the complaint may then exercise their recourse before the Complaints Review Committee.

43. Report or recommendations

The Medical Complaints Examiner may transmit to the Board of Directors and, if applicable, the Council of Physicians, Dentists and Pharmacists, any report or recommendation that he deems useful in the performance of his functions. A copy shall be sent to the Commissioner.

44. Appointment of a Substitute Medical Complaints Examiner

When the Medical Complaints Examiner is, or feels he might be, in a conflict of interest or role, he must inform the Commissioner who will exempt him from examining the complaint and refer the examination to the Substitute Medical Complaints Examiner. The Commissioner may also intervene in the absence of the Medical Complaints Examiner in order to respect deadlines.

SECTION 6 – HANDLING OF A REQUEST FOR REVIEW BY THE COMPLAINTS REVIEW COMMITTEE

45. Request for review

A complainant, or the professional named (physician, dentist, pharmacist or resident) in the complaint, who disagrees with the conclusions transmitted or deemed to have been transmitted by the Medical Complaints Examiner, may request to have them reviewed by the Complaints Review Committee. Such request must be made in writing and sent to the chair of committee at the address of the administration of the Douglas Hospital accompanied, if applicable, by the Medical Complaints Examiner's conclusions.

46. Reason for the request and exclusions

A request for review must relate to the examination of the complaint by the Medical Complaints Examiner. It may not relate to the summary dismissal of a complaint or to the Medical Complaints Examiner's decision to forward the complaint for disciplinary review.

47. Time limit

The request for review must be made within 60 days following receipt of the conclusions for which the review is requested or the expiration of the time limit set out in article 41 if such conclusions have not been transmitted. The Complaints Review Committee may receive a request beyond the time limit if it deems the complainant could not have acted sooner.

48. Assistance

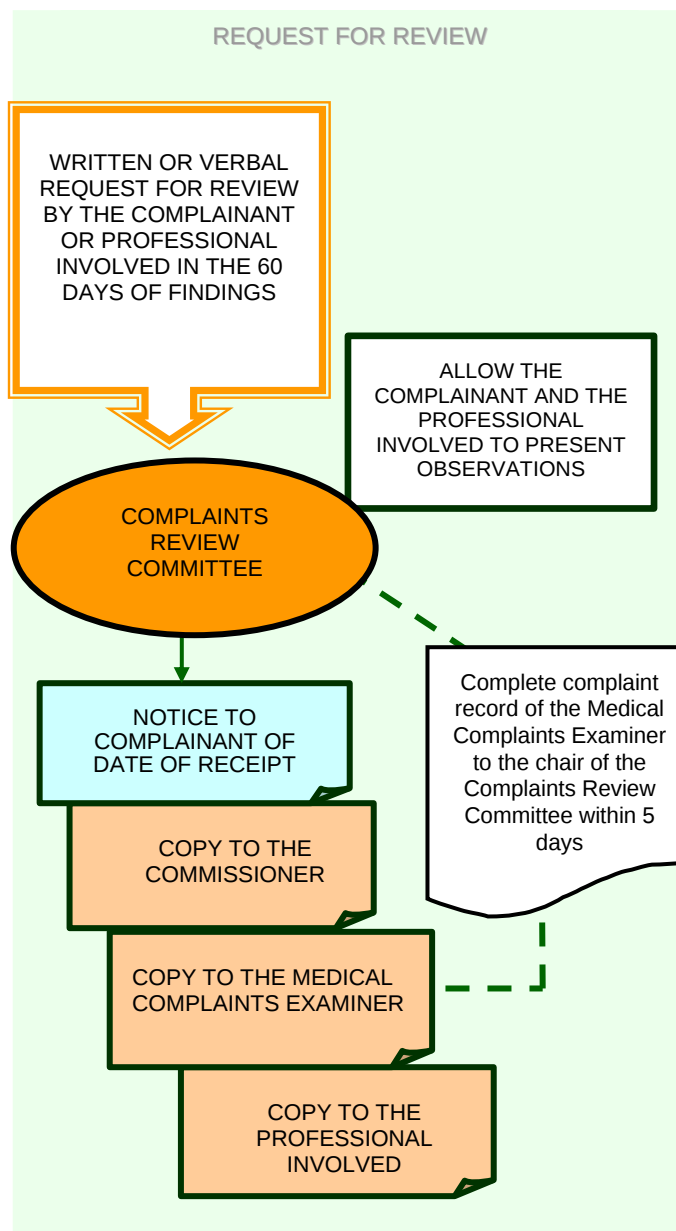
The Commissioner must provide or ensure assistance to any person who wishes to submit a request for review, in particular, by helping him with the preparation of the request and with any steps taken with the Users' Committee of the Institution or the competent regional organization.

49. Notice of receipt

The chair of the Complaints Review Committee shall promptly send a written notification of the date the request was received to the person who requested a review. He sends a copy to the other party as well as to the Medical Complaints Examiner and the Commissioner. The notice must state that each party may present its arguments and set out the procedures as to how such arguments may be made.

50. Complaint record

The Medical Complaints Examiner shall transmit the complaint record to the Complaints Review Committee within five (5) days of receipt of the notice stipulated in article 49.



51. Review

The Complaints Review Committee shall examine the complaint record and determine whether the Medical Complaints Examiner examined the complaint diligently and fairly. The Complaints Review Committee must also ensure, if applicable, that the conclusions of the Medical Complaints Examiner respect the rights of the parties as well as the applicable professional norms and standards.

52. Notice of meetings

The Complaints Review Committee may call any person to a meeting. It may also request any information it deems useful to the examination of the complaint. When the person summoned by the Complaints Review Committee or required to provide information is an employee of the Institution or practices his profession in the Institution, such person must comply with the request of the Complaints Review Committee. Except with a valid excuse, any other person must attend a meeting called by the Complaints Review Committee.

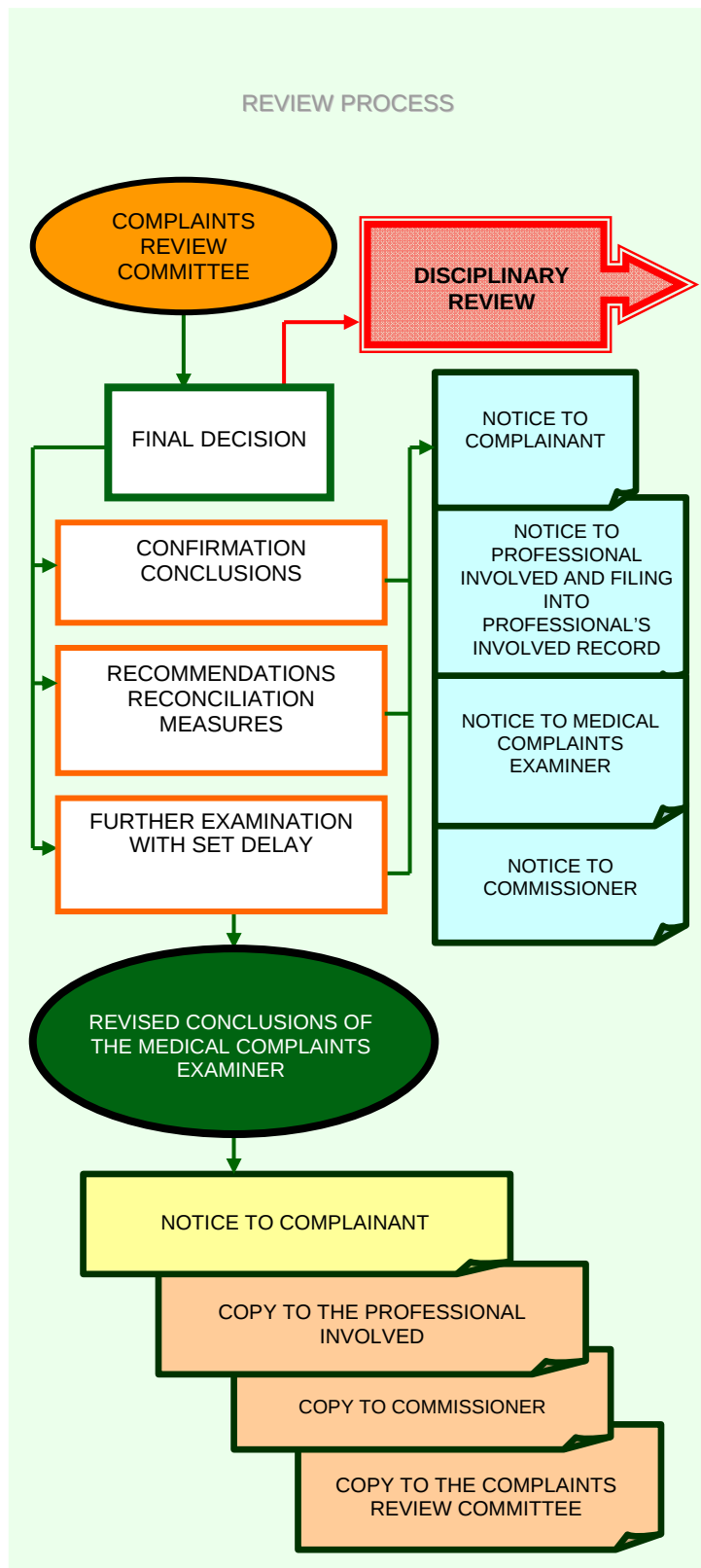
53. Patient's record

The Complaints Review Committee shall have access to the patient's record and to any information or document contained therein.

54. Jurisdiction

The Complaints Review Committee must make one of the following decisions:

- a) Confirm the conclusions of the Medical Complaints Examiner;
- b) Require the Medical Complaints Examiner to make an additional examination within the delays prescribed by the committee and transmit his new conclusions to the patient, with a copy to the Complaints Review Committee, the professional involved as well as to the Commissioner;
- c) Forward the complaint to be handled in accordance with article 32 (dismissal for disciplinary purposes), when it concerns a physician, dentist or pharmacist, to the CPDP;
- d) Forward the complaint to be handled for disciplinary purposes by the concerned authority in virtue of paragraph 2 of article 506 of the Act when the complaint concerns a resident;



- e) Recommend to the Medical Complaints Examiner, or, if applicable, to the parties themselves, any reconciliatory measure.

55. Motivated decision

The Complaints Review Committee must reach a decision and give reasons within 60 days following receipt of the request for review and send a written copy to the parties concerned. The decision may include a dissenting opinion. The Committee sends a copy of its decision to the Commissioner and to the Medical Complaints Examiner. The Committee's decision must be filed in the record of the professional involved as well as in the complaint record.

56. Final decision

The decision of the Complaints Review Committee is final and not subject to review.

57. Report and recommendation

The Complaints Review Committee may transmit to the Board of Directors and, if applicable, to the Council of Physicians, Dentists and Pharmacists any report or recommendation it deems useful in the performance of its functions. It sends copies to the Commissioner and the Medical Complaints Examiner.

SECTION 7 – COMPLAINT RECORD

58. Creation of a complaint record

A complaint record shall be created and kept by the Commissioner or, if applicable, by the Medical Complaints Examiner.

The patient's complaint record is confidential and shall not be accessed except in accordance with the Act.

59. Content of the patient's complaint record

Subject to a regulation adopted under item 23 of article 505 of the Act, the patient's complaint record must include any documents pertaining to the complaint and its handling produced or received by the Commissioner, and if applicable, by the Medical Complaints Examiner or the Complaints Review Committee.

60. Transmission to the Health and Social Services Ombudsman

The Commissioner must, within 5 days of receipt of the written communication contemplated in subparagraph 4 of the second paragraph of article 10, of the *Act Respecting the Health and Social Services Ombudsman and amending various legislative provisions* (R.S.Q., c. P-31.1), transmit a complete copy of the complaint record to the Health and Social Services Ombudsman.

61. Prohibition

No document in the patient's complaint record may be placed in the record of a personnel member or of a member Council of Physicians, Dentists and Pharmacists of the Institution. However, the reasoned conclusions of the Medical Complaints Examiner and, if applicable, the accompanying recommendations, as well as, if applicable, the review notice of the Complaints Review Committee must be filed in the record of the professional named in the complaint.

62. Conservation and destruction

Following its closure, the complaint record shall be kept for the period stipulated in the document conservation schedule adopted by the Quebec National Archives in September 2004. At the end of such period, the Commissioner shall see to its destruction.

SECTION 8 – ANNUAL REPORT ON THE APPLICATION OF THE COMPLAINT EXAMINATION PROCEDURE, ON PATIENT SATISFACTION AND THE ENFORCEMENT OF PATIENT RIGHTS

63. Annual report of the Institution

The Board of Directors shall transmit to the Agency once a year and each time it requires it, a report on the application of the complaint examination procedure, patient satisfaction and the enforcement of their rights. This report includes the outline of the Commissioner's activities, the Medical Complaints Examiner's report and that of the Complaints Review Committee as described in articles 64, 65 and 66 of the present By-Law.

64. Annual report of the Commissioner

No later than May 31 of each year, the Commissioner must transmit to the Board of Directors an annual report on the application of the complaint examination procedure, patients satisfaction and the enforcement of their rights describing in particular, the number of and reasons for the complaints received the number of complaints dismissed on summary examination, examined or abandoned. The annual report must indicate the time taken to examine the complaints, to carry out the follow-ups as well as the number of complaints that gave rise to an application to the Health and Social Services Ombudsman and the reasons for those complaints.

The annual report must also contain the Commissioner's recommendations for improving the satisfaction of patients and promote the enforcement of their rights. The report may contain any other recommendation the Commissioner deems appropriate.

65. Annual report of the Medical Complaints Examiner

No later than May 31 of each year, the Medical Complaints Examiner must transmit to the Board of Directors and, if applicable, to the Council of Physicians, Dentists and Pharmacists, an annual report describing, in particular the number of complaints transferred to him, the number of such transfers dismissed on summary examination, the number directed in accordance with articles 32 and 40, as well as the reasons for the complaints he examined. The annual report must also contain the Medical Complaints Examiner's recommendations for improving the quality of the care and services. The report may contain any other recommendation the Medical Complaints Examiner deems appropriate. A copy of such report shall be transmitted to the Commissioner who includes its content to the report the Institution must transmit to the Agency in accordance with article 76.10 of the Act.

66. Annual report of the Complaints Review Committee

No later than May 31 of each year, the Complaints Review Committee must transmit to the Board of Directors and, if applicable, to the Council of Physicians, Dentists and Pharmacists, an annual report describing, in particular the number of requests it received, the reasons for such requests, the decisions it rendered as well as the time taken to examine the requests for review.

The annual report may also contain the recommendations of the Complaints Review Committee for improving the quality of the care and services. The report may contain any other recommendation the Complaints Review Committee deems appropriate. A copy of such report shall be transmitted to the Commissioner as well as to the Health and Social Services Ombudsman.

67. Ad Hoc Report

The Board of Directors must transmit to the Minister, each time it is required, a report dealing with one or another item covered under article 76.11 since the last report as well as on any other matter related to the application of the complaint examination procedure including provisions applicable to a complaint of a patient dealing with a physician, dentist or pharmacist.

A copy of this report must also be transmitted to the Health and Social Services Ombudsman.

SECTION 9 – FINAL PROVISIONS

68. Reprisals

The Commissioner, the Medical Complaints Examiner or the Complaints Review Committee must intervene, in the manner it deems appropriate and without delay, when informed that a person who filed or plans to file a complaint has been subject to reprisals of any nature whatsoever.

69. Date effective

The present By-Law shall come into force on April 1, 2007, upon adoption by the Board of Directors of the Douglas Hospital.

70. Revision

The present By-Law must be revised every three (3) years following its adoption or when legislative amendments so require.

SCHEDULE I: OATH



Declaration under oath

I declare under oath that I will fulfill the duties of my office dealing with the application of the **Act Respecting Health Services and Social Services** (R.S.Q., 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.

Before a witness, I sign in Montreal:

First name and Name in bold letters

This ____th day of _____ 20__

Signature

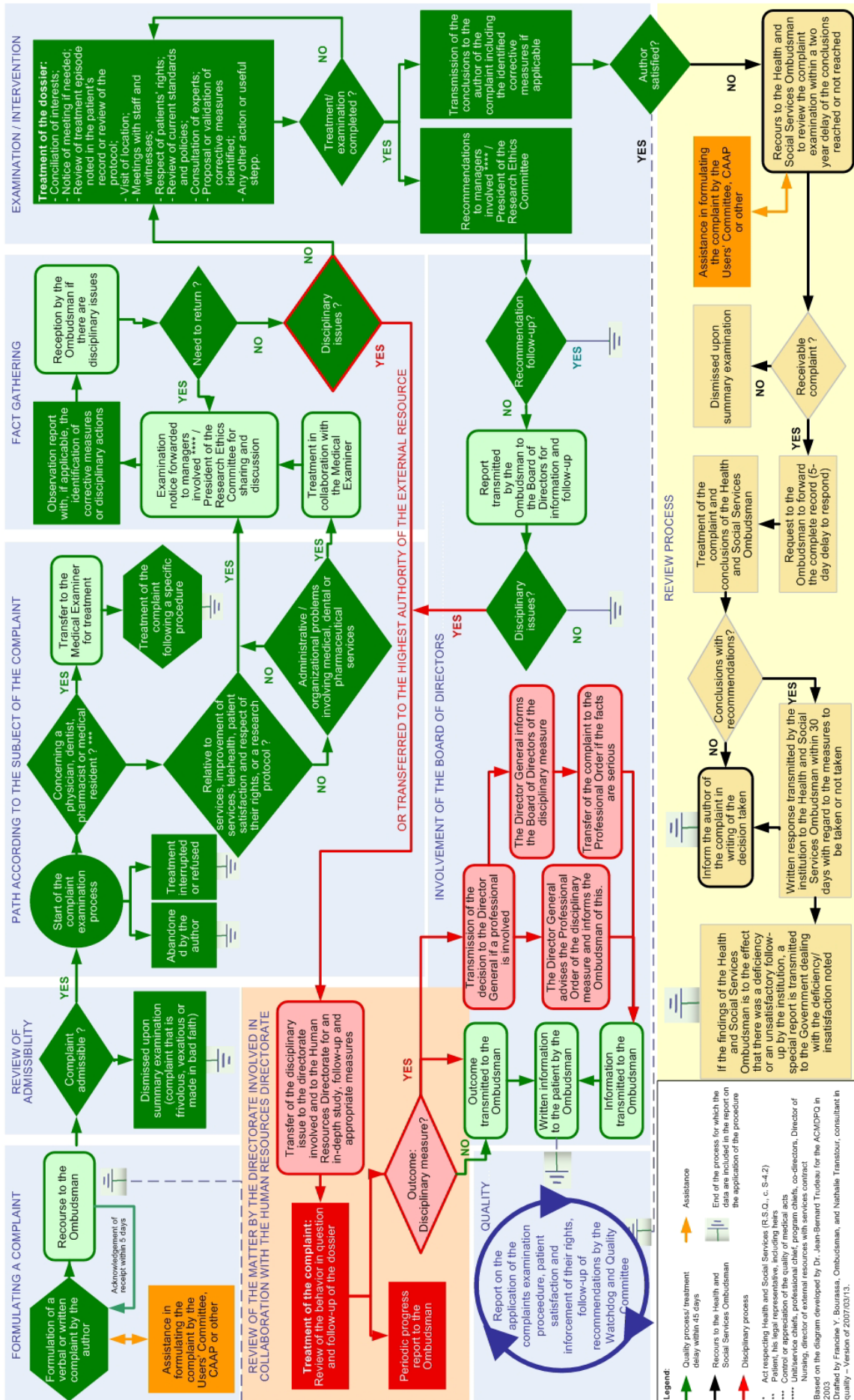
Declared under oath before me in Montreal

This ____th day of _____ 20__

Signature of the person competent to witness an oath

**SCHEDULE II: DIAGRAM OF THE COMPLAINTS EXAMINATION PROCEDURE
AND THE IMPROVEMENT OF THE QUALITY OF SERVICES BY THE COMMISSIONER**

THE DIAGRAM OF THE COMPLAINTS EXAMINATION PROCEDURE AND THE IMPROVEMENT OF THE QUALITY OF SERVICES BY THE OMBUDSMAN – LOCAL SERVICE QUALITY AND COMPLAINTS COMMISSIONNER



**SCHEDULE III: DIAGRAM FOR A COMPLAINT
(MEMBER OF THE CPDP)**

