



College of
Midwives
of Ontario

Ordre des
sages-femmes
de l'Ontario

Guide to Filing a Complaint

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The role of the College is to regulate the profession of midwifery in accordance with the *Regulated Health Professions Act*. The primary responsibility of the College is the protection of the public and as part of its mandate must deal with all complainants received about a registrant's practise or behaviour.

Who can make a complaint to the College?

Anyone can make a complaint, including clients, family members, and other members of the public. The College is obliged to address every complaint it receives.

Can I make an anonymous complaint?

Formal complaints cannot be anonymous. If you do not wish to make a complaint, you can provide information about your concerns to the College (including anonymously). The College will consider all information received on a case-to-case basis to determine if an investigation is required but will not provide you with any further information about how it addressed your report.

Is there anything I should do before making a complaint?

If you are comfortable doing so, you can discuss your concerns with the midwife before filing a complaint. In some cases, you may be able to resolve the issue without the need to file a complaint.

If you have questions about the care you received, you may speak to the College's Professional Practice Advisor. The advisor can help you understand the standards a midwife must follow. The College's Professional Conduct staff can help you understand the complaints process. College staff cannot comment on whether the care you received was appropriate or not, nor can we get involved in client care by advocating for you or the midwife.

What information do I need to provide to file a complaint?

The College must receive the complaint in a permanent form, either written or recorded (audio or video). You must include the following information:

- Your full name, mailing and/or email address and phone number
- A clear statement that you are filing complaint along with the name(s) of midwife/midwives you are complaining about
- Name(s) of the midwifery practice, hospital(s) or other health clinics, if applicable
- The dates of the incident, the specific issue(s) you are complaining about and a description of your concerns *in your own words* (you may, but you are not required to know or refer to College standards in your complaint)
- Any enclosures you wish to include with your complaint

The College cannot process complaints against Midwifery Practices as the College only has jurisdiction over individual midwives. If you need assistance with identifying a midwife, the College can assist.

What happens once the College receives my complaint?

The College will send you a letter that confirms receipt of your complaint within 14 days.

Generally, the College will also contact you within two business days of receiving your complaint to explain the complaints process and to confirm the main issue(s) of your complaint.

Will the midwife know I made a complaint?

The midwife is notified of your complaint within 14 days of receiving your letter of complaint. A copy of your complaint letter will be enclosed.

What is the ICRC?

The ICRC is the Inquiries, Complaints and Reports Committee which is the statutory committee of the College that investigates and renders decisions on complaints. When considering complaint matters, the Committee operates in panels that includes public and professional members appointed by College Council to the ICRC.

What is the complaints process?

The College has two complaint process streams: the ICRC investigative process and an alternative dispute resolution process.

Stream 1: Alternative Dispute Resolution

What is Alternative Dispute Resolution (ADR)?

Some complaints are eligible to be processed through the ADR process.

In this process, both you and the midwife must consent to participate. A mediator will work with you and the midwife separately to discuss the complaint and exchange ideas for resolving it in a manner that protects the public interest and satisfies you.

Resolutions are unique to each complaint so it is difficult to predict what a resolution may look for you. Some resolutions may include one or more of the following:

- Acknowledgment regarding the incident and the impact it had on the complainant, and/or an apology by the registrant
- Changes or initiatives set forth by the registrant that will improve future care
- An agreement by the registrant to take a remedial course or obtain additional educational relating to an issue(s) identified in the complaint

- An understanding or acknowledgment by the complainant that the registrant acted appropriately

Both you and the midwife decide on the resolution and will sign an agreement outlining the resolution. The final copy of the agreement will be provided to both parties after it is reviewed and ratified by either the Registrar or a panel of the ICRC to ensure the agreement is in the public interest. A midwife must abide to the terms of the agreement.

More information about ADR can be found in the ADR Policy available on the College website.

Where does ADR take place?

ADR typically takes place through telephone or video conference and arranged at a time that is mutually convenient to all parties. The mediation can occur separately or together with the midwife depending on your wishes. The mediator will speak to you about your preferences, but you will not be required to speak directly to the midwife.

How long does ADR take?

A resolution must be reached within 60 days, with a possibility of a time extension to 120 days (if the Registrar or ICRC believes that it is in the public interest to do so).

The number and complexity of the issues, and the availability of all parties are factors that can impact how quickly resolution is achieved. If resolution is not achieved within 120 days, the complaint is processed through the regular ICRC investigative process.

What if ADR is discontinued or is unsuccessful?

In these cases, the complaint will be processed through the regular ICRC complaints process.

Some examples of when ADR may be discontinued are:

- You or the midwife can withdraw from the ADR process at any time
- The mediator or College may end the process if it is evident that either you or the midwife is abusing the process and/or not acting in good faith
- The Registrar or ICRC may not ratify the agreement reached
- Resolution has not been achieved within 120 days

Stream 2: ICRC Investigative Process

What does the ICRC complaint process look like?

The ICRC will investigate your complaint which will include obtaining a copy of your midwifery record.¹

Other investigative steps could include obtaining hospital or EMS records, witness statements, etc. if they are deemed relevant to your complaint. Occasionally, the ICRC may decide an expert opinion is required. Sometimes, the ICRC may engage a third-party investigator to conduct aspects of the investigation.

The midwife is asked to respond to your complaint within 30 days (although sometimes extensions are granted).

The midwife's response to your complaint is generally shared with you, particularly if it raises new information and the ICRC requires your comment.

The midwife is provided an opportunity to provide a further written submission on all information gathered in the investigation before the ICRC meets to deliberate and decide on your complaint.

After a thorough review of the materials gathered in the investigation, a panel of the ICRC will then meet to deliberate and decide on an appropriate outcome and prepare written reasons for their decision.

Every panel of the ICRC uses the [ICRC Risk Assessment Framework](#) tool to aid them in making fair, consistent and transparent decisions considering the seriousness of the issues raised.

It is important to remember that the ICRC makes decisions in the public interest, and their role is to determine if a concern should be referred to the Discipline Committee for a hearing, and if no, is any remedial action necessary to improve the midwife's future practice. In doing so, the ICRC will also consider other aggravating and mitigating factors along with any previous decisions the College has made involving the midwife.

¹ Section 43 (1)(b) of Personal Health Information Protection Act, 2004 (PHIPA) permits midwives to disclose personal health information about an individual to the College for the purpose of the administration or enforcement of the Regulated Health Professions Act, 1991.

What are the possible outcomes?

The ICRC can make a decision that includes one or more of the following outcomes:

- Take no action
- Offer recommendations or advice
- Order the midwife to complete a Specified Continuing Education or Remediation Program (SCERP)
- Require the midwife to receive an oral caution
- Require the midwife to sign an acknowledgment and undertaking
- Refer specified allegations of professional misconduct and/or incompetence to the Discipline Committee for a hearing
- Refer the matter to a health inquiry or the Fitness to Practise Committee for a hearing

The ICRC has no authority to assess injury or award compensation to the complainant. That is the subject of civil court proceedings. The ICRC does not have the ability to order that a midwife apologize or change medical records.

Are any outcomes public?

The College is required to post certain information on the public register but will not post information that could identify you. Notation of dispositions of the ICRC that include a public posting include:

- Oral cautions
- SCERPs
- Specified allegations referred to the Discipline Committee
- Referrals to the Fitness to Practise Committee
- Acknowledgments & Undertakings (while in effect only)

The purpose of the public register is to provide the public with information about midwives, which may assist them in deciding who to choose for their care.

How will I find out the outcome?

You and the midwife will both receive a copy of the ICRC's final decision. The Decision and Reasons document that you receive will advise you of the outcome and explain the reasons why the ICRC made the decision that they did.

How long is the process going to take?

The College aims to dispose of a complaint within 150 days. While every effort is made to process the complaint in a timely manner, due to the complexity of some cases, and delays in obtaining records, this often takes longer. You can expect the College to provide you with status updates once the complaint has reached the 150-day and 210-day mark, and then monthly updates until the matter has been closed.

What if I am unhappy with the decision?

You and the midwife may ask that the Health Professions Appeal and Review Board (HPARB) review the ICRC's decision (the exception being if the ICRC decided to refer the matter to the Discipline or Fitness to Practise Committee for a hearing).

HPARB conducts a review of the ICRC's process and can only consider whether the College's investigation was adequate and whether the decision was reasonable.

Details on how to request a review are provided to you at the same time you receive the ICRC's decision.

What should I consider when deciding which College complaint process is right for me?

If your complaint is eligible to be processed through ADR, you may wish to consider the following:

- ADR quickly resolves concerns without the need for an investigation
- You have more control over the outcome with ADR. If you and the midwife reach a resolution, it is one that you have chosen together. By contrast, with the ICRC investigative process, the ICRC will independently choose an outcome.
- ADR is often less adversarial and focuses on mutual understandings
- If you prefer a hands-off approach (i.e. you just want to file the complaint and be notified of the outcome), the ICRC investigation process may be preferable to you.
- With ADR, you do not need to wait for a written decision. The Registrar will promptly review any resolution agreement to ratify the agreement and close the complaint.
- You can change your mind at any time during either process if you feel ADR is no longer, or is no longer, an option for you (up until the time the ICRC has released their decision to you).

Is there any cost to filing a complaint?

The College does not charge you to file a complaint. The College covers the costs of the mediation in the ADR process.

Do I need a lawyer to help me with a complaint?

You may find it helpful to obtain a lawyer, but it is not required. In fact, we have observed that most complainants do not obtain legal counsel. However, midwives often use lawyers when responding to complaints because the process may have a significant impact on their practice and career.

Midwives usually obtain lawyers through their professional liability insurance. The College is not involved in this process.

Will my information be kept confidential?

The College has a duty to maintain confidentiality and will not share your information with anyone outside of the investigation.

Any documents created during ADR remain confidential and are not used as part of the ICRC's complaints process.

If you request a HPARB review, or if the complaint is referred to the Discipline Committee, note that the case will be heard in a hearing which is open to the public.

How can the Professional Conduct staff help me?

College staff cannot tell you whether or not to file a complaint, how long it will take for the ICRC to render their decision or what the outcome may be. However, we can answer any questions you have regarding the complaint processes.

We can also share statistics of how prior complaints have been resolved and benchmarks for timely disposition of complaints.

College staff play an administrative role and do not make decisions on complaints. Only the ICRC does.

We can be contacted by email at conduct@cmo.on.ca or by telephone at 416-640-2252.



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