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Ordre des travailleurs sociaux
et des thérapeutes conjugaux
et familiaux du Québec

L'HUMAIN. AVANT TOUT.



The Syndic's inquiry process

With each new inquiry carried out by the syndic (or assistant syndic), the same questions come up: How do you do your work? What are the steps leading to the conclusions of this request for inquiry and how does the Office of the Syndic intend to follow up on this situation, if required?

Admissibility of a request for inquiry

A request for inquiry is initiated by a verbal or written statement submitted by an individual or representative of an establishment (the applicant) to the Office of the Syndic. The syndic can also act on his own, at the request of the Board of Directors of the Order or the Professional Inspection Committee.

The syndic processes every new request for inquiry in order to determine its admissibility, based on prevailing laws and regulations. To this end, he asks the following questions:

- ✓ Was the targeted social worker or couple and family therapist a member of our Order at the time the events with which he is charged are said to have occurred?
- ✓ Are the allegations presented in support of the request based on facts and/or objective data within an identifiable timeframe?
- ✓ Do articles of the Professional Code, Code of Ethics and Professional Conduct, prevailing regulations or any pertinent law apply to the situation being reported?
- ✓ Should greater precisions be obtained from the applicant regarding the allegations against the professional involved?
- ✓ Has the applicant completed the Request for Inquiry Form making it possible to specify the nature of services received or mandate entrusted to the professional involved, the nature of the case against him, and has another body received a complaint about this same professional for the same reasons?

The syndic concludes this phase on the admissibility of the case by informing the applicant that he has either decided to conduct an inquiry or that he deems the request to be unfounded, while providing the reasons for his decision. An appeal of said decision can, however, be submitted to the Review Committee. Generally, given the volume of requests for inquiry awaiting processing, the syndic will not immediately contact the member involved, so as to avoid causing the latter undue stress over an extended period of time. Once the syndic begins the inquiry, both the member and the applicant are notified.

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When a request for inquiry deals with a dispute regarding fees, the syndic can offer both parties a conciliation of accounts, should the applicable regulation allow for this process. In this instance, the syndic will follow up on the request immediately, given the timeframes set forth in the *Regulation respecting the procedure for conciliation and arbitration of accounts* for members of the Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec.

The inquiry

The syndic has considerable investigative powers, as defined in article 122 of the Professional Code L.R.Q., chapter C-26: "*The syndic and assistant syndics may, following information to the effect that a professional is guilty of an offence contemplated in section 116, inquire into the matter and require that they be provided with any information or document relating to such inquiry.*" This article specifies that professionals and any other persons concerned are required to collaborate with the inquiry. This obligation is reinforced by article 114: "*It is forbidden to hinder in any way...the (syndic), to mislead him by concealment or false declarations, refuse to furnish him with any information or document relating to an inspection or inquiry carried out by him under this Code or to refuse to let him take copy of such a document.*"

Article 192 more specifically defines the power of the syndic "*...in the performance of his duties, to examine a record kept by a professional, require the production of any document or make a copy of such record or document*" ... "*The professional shall, upon request, allow the examination of such record or document and may not invoke his obligation to ensure professional secrecy as a reason for refusing to allow it.*"

The syndic is mandated to investigate the actions of a professional following receipt of information alleging that the latter has committed an offence. However, his investigative powers are not limited to information or copies of document related to the situation under investigation. The syndic must not restrict his inquiry solely to the allegations that have been made and must consider any other breaches, which his investigation may uncover.

In compliance with the measures of the Professional Code and case law on the subject, the contents of an inquiry conducted by the syndic are kept strictly confidential, even from the applicant and the professional involved. Information gathered by the syndic is stored at the Office of the Syndic and is not available to other employees of the Order. Some information is provided to the professional as part of the disclosure of evidence when the complaint is filed with the Disciplinary Board. Moreover, the complaint becomes public from the time it is tabled, and documents submitted in support of the proof are also accessible once they have been tabled with the Disciplinary Board (barring access prohibited on order from this same Board).



The inquiry generally involves the following steps:

1. taking into account all of the documentation gathered;
2. analysis of the file of the client(s) involved;
3. identification, in the Professional Code, the Code of Ethics and Professional Conduct, or any other applicable regulation, of articles that could be related to this request for inquiry.

request
illegal use
protection
conciliation

Contact with the applicant

By telephone or in person, the applicant will be advised of the Office of the Syndic's investigative process. At the request of the syndic, the applicant will specify the contents of the elements of which the professional is accused. The syndic can collect an additional documentation (hard copy and/or electronic), identify potential witnesses and answer any questions relating to the investigative process. As called for in article 122.2 of the Professional Code, the applicant may be assisted by another person at any stage of the inquiry, in compliance with the rules of confidentiality. However, this assistant must not be a potential witness, otherwise he should be met separately.

Contact with the accused party

By telephone or in person, the syndic will present the overall process to the member under investigation and remind him that he is studying a "request for inquiry", which will be followed by a decision on the merits of this request. The syndic will then specify the elements of which the member is accused, obtain his version of the facts supported by any relevant documentation, identify potential witnesses and answer any questions relating to the investigative process. The member can ask to be accompanied at this interview. The person accompanying the member can observe without intervening in the investigative process. As he will be bound by professional secrecy, he must be a member of a professional order and, as such, will be required to respect the confidentiality of the exchanges.

If a member is in private practice, the first time the syndic meets with him in his place of professional business, he will ask him to provide the file of the client involved, in order to familiarize himself with its contents.

The syndic can obtain all facts brought to his attention outside of the initial accusation. He can therefore investigate facts of which he has become personally aware during the course of the inquiry. The most frequent examples concern a standard of practice, file keeping, the organization of the consulting office, etc.

Meeting with a witness

Based on the needs of the inquiry, the syndic can meet any witness likely to contribute to the investigation. In this regard, neither the applicant nor the member involved can impose on the syndic a list of witnesses he is required to meet.

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Seek an expert opinion

The syndic can seek the opinion of an expert in the field of practice involved in the inquiry, in order to interpret standards of practice. He cannot serve as investigator and expert, even if he is familiar with the field of practice involved. However, he is not bound by the analyses and conclusions submitted by the expert. In fact, the Professional Code stipulates that the syndic enjoys decisional and operational independence in the exercise of his functions.

The expert is bound by the same rules of confidentiality as the syndic.

Conclusions of an inquiry

Generally speaking, the inquiry ends when the syndic has obtained all pertinent information needed to rule on the validity of the request for inquiry.

As a rule, the syndic will only discuss his investigation with members of the Office of the Syndic or the Order's attorney, in order to validate his analysis and the relevance of the proof obtained.

The inquiry will end with one of the three following conclusions:

1. inability to proceed: inadequate proof;
2. unfounded allegations: no element corroborating the allegations;
3. well-founded allegations: one or more elements corroborate, in part or in whole, the allegations and breaches identified during the course of the inquiry.

At the end of the inquiry, the syndic will advise the person who requested the inquiry of the outcome of his investigation. He will also notify the member involved, by certified mail.

As called for in article 123.4 of the Professional Code, the person who requested the inquiry may, within 30 days following receipt of the decision, ask the Review Committee to issue an opinion on the syndic's decision.

When the syndic has identified professional breaches, four scenarios are possible:

Conciliation

As provided by article 123.6 of the Professional Code, "where the syndic considers that the facts put forth to support the request for the holding of an inquiry may be the subject of a settlement, he may, at any time before the complaint against the professional is lodged with the Committee on Discipline, propose conciliation to the person who requested the holding of the inquiry and to the professional." This measure requires the consent of both parties.

This same article prohibits the syndic from proposing conciliation "where he considers that the facts put forth to support the request for the holding of an inquiry are of such a nature that the protection of the public could be compromised if the professional were to continue to practice his profession."

complaint

ALLEGATION
objection
Disciplinary Committee



If there is agreement between the parties, a settlement resulting from conciliation is recorded in writing and attached to the syndic's report. This measure effectively withdraws the request for holding an inquiry. The contents of this agreement cannot subsequently be used as proof in proceedings before other bodies.

Cautionary note

This measure covers minor infringements committed for the first time and admitted to by the member involved. In the event of a repeat, this cautionary note can be considered by the syndic in the analysis of a subsequent request for the holding of an inquiry. The cautionary note is sent to both the professional involved and the person requesting the inquiry, in the event that it relates to an allegation made by the latter. As is the case for all of the syndic's decisions, the person requesting the holding of an inquiry can ask that said decision be submitted to the Review Committee.

Referral for professional inspection

When an investigation reveals infringements that relate to standards of practice – while the syndic's inquiry generally deals with one situation – the syndic can recommend an overall evaluation of the targeted member's practice (article 122.1 of the Professional Code). This same article allows the syndic to provide our Order's Professional Inspection Committee with any pertinent document obtained during the course of the inquiry, in support of his recommendation.

Should a specific inspection uncover ethical breaches, the Inspection Committee shall, according to article 112 of the Professional Code, "inform the syndic where it has reasonable grounds to believe that a professional has committed an offence." The syndic must then decide on the pertinence of conducting an inquiry.

Submitting a complaint to the Disciplinary Committee

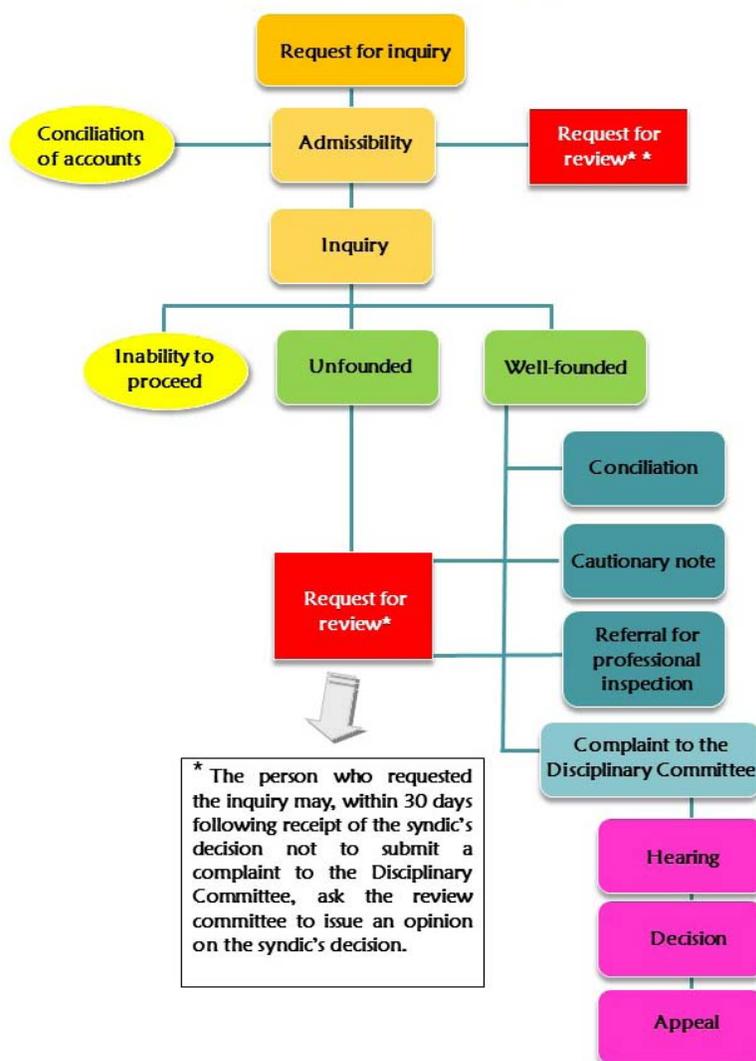
To ensure the protection of the public, after observing breaches by a member, the syndic submits a complaint to the Disciplinary Committee.

Furthermore, pursuant to article 128 of the Professional Code, "The syndic must, at the request of the Bureau, lodge a complaint against a professional which appears to be justified; he may also, on his own initiative, act in this regard." This same article specifies that a complaint can be lodged against a member by any other person. Therefore, a client can submit a request to the Disciplinary Committee and lodge a private complaint against a member.

According to article 129 of the Professional Code, "The complaint must state summarily the nature, time and place of the offence with which the professional is charged." Upon being advised of the complaint, the professional will take note of the proof gathered against him during the course of the investigation in order to decide whether to plead guilty or not guilty.

When the Disciplinary Committee finds a professional guilty, in whole or in part, of the accusations against him, it determines the appropriate sanctions based on representations by each of the parties as well as relevant case law.

THE SYNDIC'S INQUIRY PROCESS



CONFIDENTIALITY

ILLEGAL EXERCISE
questioning
RESERVED ACTIVITY

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