

# Brief Summary of Inquiry Panel Hearing Process for Self-Represented Litigants

## Issued by the Inquiry Committee

***This document contains general information only. It is not legal advice. The Inquiry Panel retains jurisdiction to control its own process and may not necessarily follow the below in every case.***

***For a broader summary of the Inquiry Panel Hearing Process including matters before the hearing commences, please review “An Overview of the Inquiry Panel Process” dated Fall 2020.***

Matters referred to an Inquiry Panel of the College of Registered Nurses of Manitoba under *The Regulated Health Professions Act*<sup>1</sup> can be serious and complex. The Inquiry Panel has the power to impose discipline. In some cases, the Inquiry Panel can prevent a Member from continuing to practice.

The role of the Inquiry Panel is to determine if the allegations in the Notice of Hearing have been proven.

## A. Preliminary Matters

At the outset of the hearing, the Inquiry Panel shall ask the lawyer for the Complaints Investigation Committee (“CIC”) to speak to some procedural matters required under *The Regulated Health Professions Act*. This will establish the Inquiry Panel’s jurisdiction or legal authority to proceed with a hearing.

Once the procedural matters have been dealt with, the Member will be asked to plead guilty or not guilty to the allegations set out in the Notice of Hearing.

## B. If a Member pleads “not guilty”

If the Member pleads not guilty, this is the process the Inquiry Panel will follow:

### i) Opening Statements

The Inquiry Panel will ask the lawyer for the CIC to make a brief opening submission. The Member is able to make an opening submission immediately after this or the Member can wait until after the lawyer for the CIC has finished calling his/her witnesses.

In an opening statement, one can tell the Inquiry Panel what the case is about and what evidence one expects to call without getting into the details of the specific evidence. This is not the time to argue the case. The time for argument will come later in the hearing.

### ii) The Case of the Complaints Investigation Committee

After opening submissions, the Inquiry Panel then moves to the examination of witnesses. There is a pattern to the examination of witnesses.

The lawyer for the CIC will call one or more witnesses to give evidence. This is called direct examination.

After the lawyer is done asking his/her questions, the Member may cross-examine the witness on relevant matters. This is called cross-examination.

After the Member’s cross-examination, the lawyer for the CIC may ask additional questions but only on new matters that arose out of the Member’s cross-examination. This is called re-examination.

Finally, members of the Inquiry Panel may ask questions of the witnesses. If the Inquiry Panel chooses to ask questions, the Inquiry Panel will ask both the lawyer for the CIC and the Member if there is anything arising from the Panel’s questions and, if so, both the lawyer for the CIC and the Member will be given an opportunity to question the witness on matters arising from the Panel’s questions.

This process will repeat for each witness called.

<sup>1</sup> *If an investigation was initiated before May 31, 2018, the matter must proceed under The Registered Nurses Act. The Notice of Hearing will indicate whether the matter is proceeding under the Regulated Health Professions Act or the Registered Nurses Act. The process under the Registered Nurses Act may be different than described in this document.*

### **iii) The Case of the Member**

After the lawyer for the CIC closes his/her case and has no more witnesses to call, it will be the Member's turn. If the Member has not already made an opening statement, the Member can do so at this point. Then, it will be the Member's turn to call witnesses.

The Member may give evidence. Generally, the practice is that the Member will begin his/her case by testifying as the first witness. The Member can tell the Inquiry Panel the facts that are relevant to the allegations in the Notice of Hearing. The Member will have a chance to argue his/her case at the end. Argument is not permitted at this part of the proceeding.

After the Member gives evidence, the lawyer for the CIC will be able to cross-examine the Member. This will be followed by re-examination and questions, if any, from the Inquiry Panel.

This process will repeat for each witness the Member chooses to call.

### **iv) Rebuttal by the Lawyer for the Complaints Investigation Committee**

Once the Member is done calling witnesses, the Inquiry Panel will ask the lawyer for the CIC if he/she has any evidence in rebuttal. The Inquiry Panel will follow the same process of questioning.

### **v) Submissions/Argument**

The submissions/argument phase begins with the lawyer for the CIC.

Next, the Inquiry Panel will invite the Member to make submissions/argument.

Finally, the Inquiry Panel will ask the lawyer for the CIC whether he/she has any reply to the Member's submissions/argument.

At this point, members of the Inquiry Panel may ask questions of both the lawyer for the CIC and the Member.

### **vi) Consideration by the Inquiry Panel**

At the end of the process, the Inquiry Panel will adjourn the hearing and make a decision. In due course, the Inquiry Panel will issue a written decision whether the Member is guilty or not-guilty of some or all of the allegations in the Notice of Hearing.

### **vii) Written Decision of the Inquiry Panel**

If the Member is found not guilty, the hearing is at an end. If the Member is found guilty of one or more of the charges, the hearing will be reconvened as described below.

## **C. The Member Pleads "Guilty" or the Member is Found to be Guilty in a Hearing**

If a Member pleads guilty or if a Member is found to be guilty after a hearing described in Part B, the process to determine the appropriate penalty and costs is as follows:

The Inquiry Panel will hear submissions or argument first from the lawyer for the CIC then the Member followed by a reply by the lawyer for the CIC.

Generally, background information will be presented by the parties during their submissions. If there is a dispute between the parties on any of the information provided, it may be necessary to have witnesses called.

At the end of the process, the Inquiry Panel will adjourn the hearing and make a decision. In due course, the Inquiry Panel will issue a written decision respecting the penalty and costs to be imposed upon a Member.

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