

## THE USER COMPLAINT EXAMINATION PROCEDURE BY-LAW

Adopted by the members of the  
Montréal West Island Integrated University Health and Social Services Centre's  
Board of Directors  
November 16<sup>th</sup>, 2016  
in accordance with section 29 of  
*An Act Respecting Health Services and Social Services*  
R.S.Q., c. S-4.2

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## FOREWORD

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**WHEREAS** the reason for existence of the Montréal West Island Integrated University Health and Social Services Centre, hereafter designated as the “IUHSSC”, is the person who receives these services;

**WHEREAS** the respect for the user and acknowledgement of his rights and freedoms must guide the actions taken on his behalf;

**WHEREAS** the user must, at any time, be treated with courtesy, fairness and understanding, as well as with respect for his dignity, autonomy and needs;

**WHEREAS** the institution’s role is to ensure the delivery of quality, safe, continuous and accessible health and social services which respect the rights of individuals and their spiritual needs, and to reduce or resolve the population’s health and welfare problems;

**WHEREAS** every person is entitled to receive adequate health and social services on the scientific, 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 institution as well as its human, physical and financial resources;

**WHEREAS** the user has the right to file a complaint concerning the services he received, ought to have received, is receiving or requires from the IUHSSC, an intermediary or family-type resource of the public network or from 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* (hereafter referred to as the Act) for the provision of those services, except in the case of a complaint concerning a physician, dentist, pharmacist or a resident, who practices with such an organization, partnership or person, in which case the complaint will be examined by the medical examiner recommended by the institution’s council of physicians, dentists and pharmacists (CPDP);

**WHEREAS** the user has the right to assistance for the formulation of his complaint or any further step related to the complaint;

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

**WHEREAS** it is incumbent upon the IUHSSC’s Board of Directors to ensure the quality of services, the respect of users’ rights and the diligent handling of their complaints;

**WHEREAS** the board of directors must draft a by-law establishing a user complaint examination procedure, after consulting with the CPDP;

**WHEREAS** the board of directors must take steps to preserve at all times the independence of the local service quality and complaints commissioner, the assistant local service quality and complaints commissioner and the medical examiner in the exercise of their functions in accordance with sections 31 and 43 of the Act.

THE BOARD OF DIRECTORS ENACTS THE USER COMPLAINT EXAMINATION PROCEDURE BY-LAW FOR THE MONTRÉAL WEST ISLAND INTEGRATED UNIVERSITY HEALTH AND SOCIAL SERVICES CENTRE’S USERS AND ENSURES ITS TRANSFER TO THE MINISTER ONCE IT IS APPROVED.

## SECTION 1 – GENERAL PROVISIONS

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### 1. Definitions

In the present by-law, unless otherwise specified, the following expressions or terms mean:

- **Act** – *An Act Respecting Health Services and Social Services* (R.S.Q., c. S-4.2);
- **Assistant local service quality and complaints commissioner** (hereafter designated by the term assistant commissioner) – Exercises the functions delegated by and acts under the authority of the local service quality and complaints commissioner. After having obtained the opinion of the local commissioner, the board of directors may appoint, whenever necessary, one or more assistant commissioners;
- **Board of directors** – Montréal West Island Integrated University Health and Social Services Centre's Board of Directors;
- **Commission** – the commissioner's office, including its access points for the users of the IUHSSC's territory;
- **Competent authority** – McGill University's Associate Dean of Postgraduate Medical Education and Professional Affairs;
- **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 sections 108 or 108.1 of the Act, for the provision of those services, except in the case of a complaint concerning a physician, dentist, pharmacist, or a resident who practices with such an organization, partnership or person;
- **Complaint concerning a physician, dentist, pharmacist or resident** – for the purposes of Section 5 of this by-law, 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 non-compliance of the institution's by-laws, or the non-compliance of the terms of the resolution related to the appointment or renewal of appointment of a physician, dentist or pharmacist;
- **Council of Physicians, Dentists and Pharmacists** (hereafter designated by the term CPDP) – Montréal West Island Integrated University Health and Social Services Centre's Council of Physicians, Dentists and Pharmacists;
- **Designated regional organization** – CAAP-Île de Montréal is an organization mandated by the Minister in accordance with section 76.6 of the Act to assist and accompany, upon request, a user who wishes to lodge a complaint regarding an institution or the Health and Social Services Ombudsman, including when the complaint is directed to the IUHSSC's CPDP to be examined for disciplinary purposes or to the review committee;
- **Executive Director** – the IUHSSC's President;
- **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 sections 108 or 108.1 of the Act, 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;

- **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);
- **Institution**– the overall IUHSSC, including all its installations;
- **Intervention** – any action taken by the commissioner or assistant 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 user or a group of users are not respected. The handling of an intervention is carried out according to the same modalities as used for the examination of a complaint;
- **IUHSSC** – Montréal West Island Integrated University Health and Social Services Centre , hereafter designated by the term IUHSSC;
- **Local service quality and complaints commissioner** (hereafter designated by the term commissioner)–appointed to examine users' complaints according to the user complaint examination procedure adopted by the IUHSSC's Board of Directors, to which he reports;
- **Medical examiner** – a physician designated by the board of directors in accordance with section 42 of the Act, and upon recommendation of the CPDP, answerable to the board of directors for the application of the complaint examination procedure in cases involving a physician, dentist or pharmacist, or a resident. He may or may not practice in the centre operated by the institution;
- **Minister** – the Minister of Health and Social Services;
- **Professional** – person who holds a permit issued by an order and who is entered on the roll of the order in accordance with the Professional Code (R.S.Q. c. C-26);
- **Resident** – person who holds a doctoral degree in medicine who is undergoing a post-doctoral training program at a centre operated by the institution in accordance with section 244 of the Act;
- **Review committee** – the committee set up by the IUHSSC's Board of Directors to review the handling by the medical examiner of a user complaint lodged against a physician, a dentist, a pharmacist or a resident at the request of the user or the professional involved;
- **Services** – health services or social services provided by the institution or using “telehealth services”, 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 or 108.1 of the Act. 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;
- **Staff** – any member of the staff of the institution, the research centres or the foundations, trainee, volunteer or contractual employee working for the institution, as well as any physician, dentist, pharmacist or resident who intervenes with a user in the exercise of his functions or profession;
- **Substitute medical examiner** – the substitute medical examiner, designated by the IUHSSC's Board of Directors, to intervene when the appointed medical examiner deems to be in a real or potential conflict of interest or in a conflict of role. He may also intervene in the absence (ex. vacation, illness, etc.) of the medical examiner. The IUHSSC's Board of Directors designates a substitute medical examiner on the recommendation of the CPDP ;
- **User** – in accordance 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 user representative as covered under section 12 of the Act, as well as any heir or legal representative of a deceased

user. For the purpose of section 4 of the present by-law, the term “user” also includes any person other than a user, who formulates a complaint concerning a physician, dentist, pharmacist or a resident, including any person who participates in research according section 34 of the Act;

- **Users’ committee** – the committee implemented by the IUHSSC which has, as one of its functions, to accompany and assist, upon request, a user in any step he wishes to take in order to file a complaint;
- **User’s legal representative** – any person recognized by the law or by a court of law to act as a tutor, a mandatory or a curator on the user’s behalf;
- **Verbal complaint** – any complaint that does not fit the requirements of a written complaint is deemed to be verbal;
- **Watchdog committee** – the committee created by the IUHSSC’s Board of Directors whose main function is to follow up on the recommendations of the commissioner, the medical examiner, the review committee or the Health and Social Services Ombudsman in regard to complaints and interventions made within their respective purviews;
- **Written complaint** – a complaint is deemed written when it is produced on a medium which allows for the recognition of the signature of the person making the complaint.

## **2. Purpose and scope of application**

This by-law is intended to establish the IUHSSC procedure in regard to the examination of complaints, in accordance with *An Act Respecting Health Services and Social Services* (R.S.Q., c. S-4.2 [hereafter Act]) and the Bill n°10 on *An Act to Modify the Organization and Governance of the Health and Social Services Network, in Particular by Abolishing the Regional Agencies* (hereafter Bill n° 10).

## **3. Foreword**

The Foreword forms an integral part of this by-law (see page 3).

## **4. Title**

The present by-law may be designated as “The User Complaint Examination Procedure”.

## **5. Responsibility for application and functions**

### Commissioner

The local service quality and complaints commissioner (hereafter designated by the term commissioner) is appointed by the board of directors. He is answerable to the board of directors for the enforcement of users’ rights, for their satisfaction and for the diligent handling of their complaints. To this end, he exclusively exercises the functions provided for in the Act namely to promote the complaint examination process and the code of ethics. Within the framework of 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 a group of users are not being enforced.

The commissioner takes the necessary steps to ensure that the information required for the formulation and handling of a complaint is provided to the users and the staff. He recommends any measure to improve the handling of complaints, including a review of the procedure.

### Assistant local service quality and complaints commissioner

After having obtained the opinion of the commissioner, the board of directors may, when necessary, appoint one or more assistant local service quality and complaints commissioner (hereafter designated by the term assistant commissioner). An assistant commissioner shall exercise the functions delegated by and act under the authority of the commissioner. In the exercise of his functions, the assistant commissioner is vested with the same powers as the commissioner.

#### Medical examiner

The medical examiner, designated by the board of directors on the recommendation of the CPDP, examines any complaint lodged by a user or any other person against a physician, a dentist, a pharmacist or a medical resident practicing in the institution.

When the institution operates or maintains multiple facilities, the board of directors, may, when necessary and on the recommendation of the CPDP, designate one medical examiner for each centre or facility. The board of directors must ensure that the medical examiner is not in a conflict of interest in the exercise of his functions.

#### Review committee

The review committee is mandated to review the medical examiner's examination of a complaint filed by a user or any person to ensure that the complaint was examined properly, diligently, and equitably. Its mandate does not involve a complaint referred for a disciplinary study or when a complaint has been dismissed by the medical examiner when deemed frivolous, vexatious or made in bad faith.

#### Immunity

No legal proceedings can be brought against the following persons: a commissioner, an assistant commissioner, a medical examiner, a consultant or an outside expert, the review committee or its members, the CPDP or its members, and the board of directors or its members. They all benefit from legal immunity which prevents them from being sued for reasons of omissions or actions taken in good faith while fulfilling their functions.

They may not be compelled to make a deposition 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 reveal any conflict of interest, 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.

## SECTION 2 – FORMULATING AND RECEIVING A COMPLAINT

### 6. Formulating a complaint

The user is advised to first discuss the matter with his health practitioner and the head of the concerned department. If it proves to be difficult or the outcome is inconclusive, then the user may make a written or verbal complaint. In case of a complaint filed against a physician, a dentist, or a pharmacist, the complaint must be written. Complaints must be sent to the commission. To that end, any intervening party must provide the user with the information allowing him to easily reach the commission.

### 7. Routing

Any intervening party receiving a written complaint from a user must forward it promptly to the commission.

Any complaint filed by a user regarding the services provided by the institution or regarding the users rights must be forwarded to the commissioner, who has the latitude to examine the complaint in accordance with the provisions of this by-law.

Exceptionally, the Health and Social Services Ombudsman may intervene of his own initiative, or upon the request of a user or the commissioner.

### 8. Content of the complaint

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

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

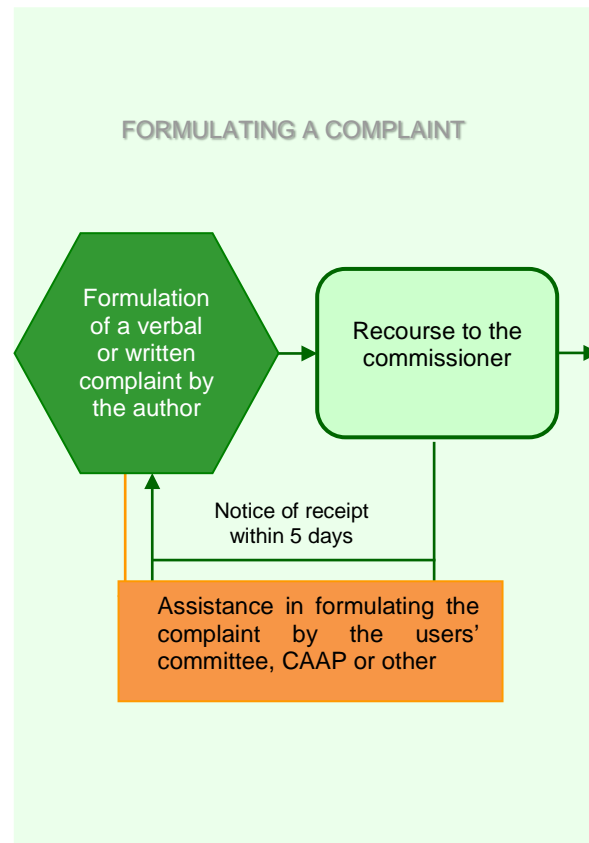
### 9. Assistance

The commissioner must assist or make sure that assistance is provided to the user in formulating the complaint or with any steps taken in respect thereof, including with the review committee.

The commissioner must inform the user that the users' committee or the competent regional organization (CAAP) can provide assistance and support.

Every user has the right to be supported and assisted by any person of his choice.

Montréal West Island Integrated University Health and Social Services Centre





#### **10. Information to the user**

The commissioner shall provide, upon request from the user, any information concerning the application of the complaint examination procedure. As well, he must inform the user regarding the legal protection from the Act 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 and proceeds with its examination.

#### **12. Notice of receipt**

The commissioner must, within five (5) days following the date of receipt of the written or verbal complaint, inform the user in writing of the receipt of the complaint, unless he has informed the user of his conclusions within 72 hours of receipt of the complaint.

This notice must indicate:

- ⇒ the date of receipt of the complaint;
- ⇒ when the complaint concerns a physician, dentist, pharmacist or resident, the date of its transfer to the medical examiner;
- ⇒ the name of the users' committee of the institution and of the assistance organization for the Montreal region;
- ⇒ the delays prescribed by the Act to examine 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 examiner;
- ⇒ the user's right of recourse to the Health and Social Services Ombudsman if the commissioner fails to communicate the outcome of the complaint examination within 45 days, or in the event of such failure by the medical examiner, the right of recourse to the review committee;
- ⇒ the recourses available to the user who disagrees with the conclusions of the commissioner or, if applicable, the medical 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 and any writings or documents regarding such complaint to the medical examiner.

However, when the user'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 of this by-law, unless the commissioner deems, after consulting with the medical examiner, that one or more physicians, dentists, pharmacists or residents are the subject of the complaint, in which case the aforementioned complaint will be transferred to the medical examiner.

#### **14. Notice to an outside resource**

In the case of complaints concerning services provided by an organization, partnership or person to which the institution has recourse for the provision of services, the commissioner shall inform the authority concerned by written notice of the receipt of the complaint or, if he is of the opinion that no prejudice will be caused to the user, forward a copy of the complaint to the authority. In case of a verbal complaint, the commissioner informs the authority concerned verbally.

### SECTION 3 – EXAMINATION BY THE LOCAL SERVICE QUALITY AND COMPLAINTS 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)

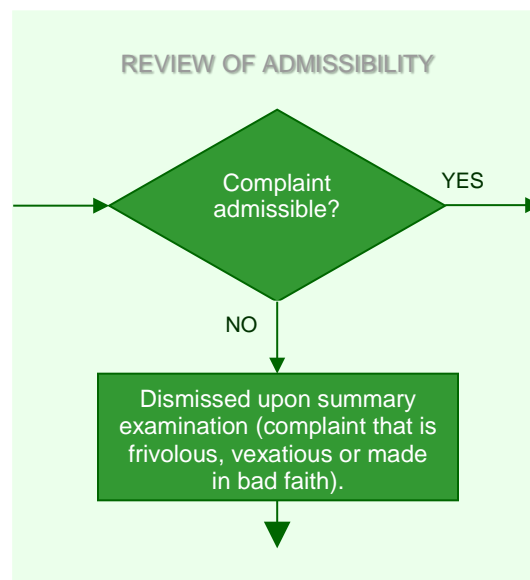
#### 15. Admissibility of the complaint

The commissioner, in keeping with his jurisdiction, shall assess the admissibility of the complaint by ensuring that it is made by a user or his legal representative and pertains to services offered by the IUHSSC 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 examiner to identify improvement measures.

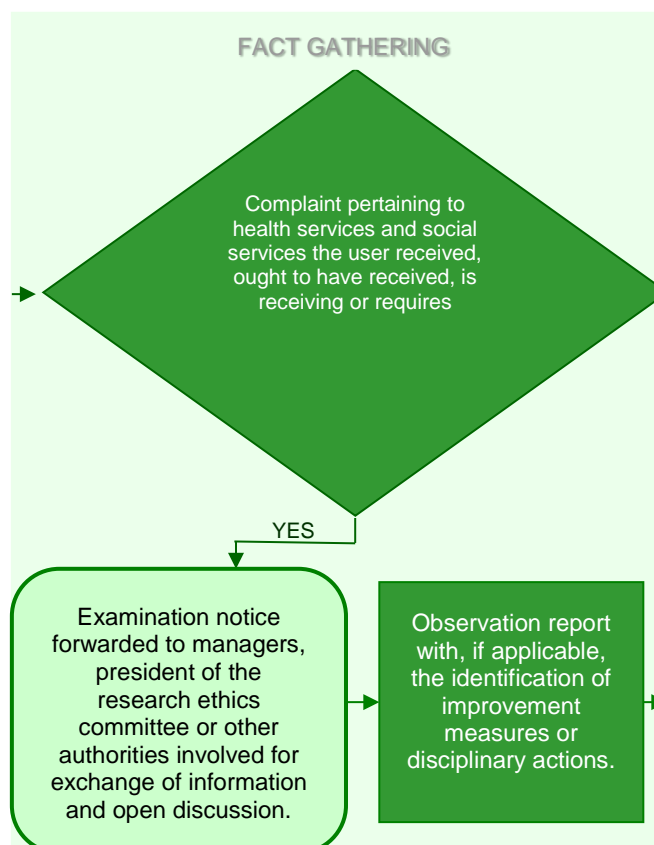


#### 17. Complaints which are frivolous, vexatious or made in bad faith

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

#### 18. Notice of examination

The commissioner shall promptly send a written notice to the user, and, if applicable, to the department head, president of the research ethics committee or any other authority concerned of his decision to examine such complaint. The notice must state that each party may present observations and shall set out the procedure to follow. For these purposes, the commissioner shall establish procedures that permit all parties to present their observations. In the case of a systemic issue (work or organizational process malfunction), the managers involved or the president of the research ethics committee present their observations within a report, including identified improvement measures, if applicable.



For any complaint pertaining to the conduct of a staff member of the IUHSSC, the examination is conducted in accordance with the provisions of Section 4 of the present by-law.

### **19. Conciliation**

The commissioner who examines a complaint acts as a conciliator. 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 lessen 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 IUHSSC, such person must comply with the commissioner's request. Except when able to provide a valid excuse, any other person must attend a meeting called by the commissioner.

### **21. User's record**

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

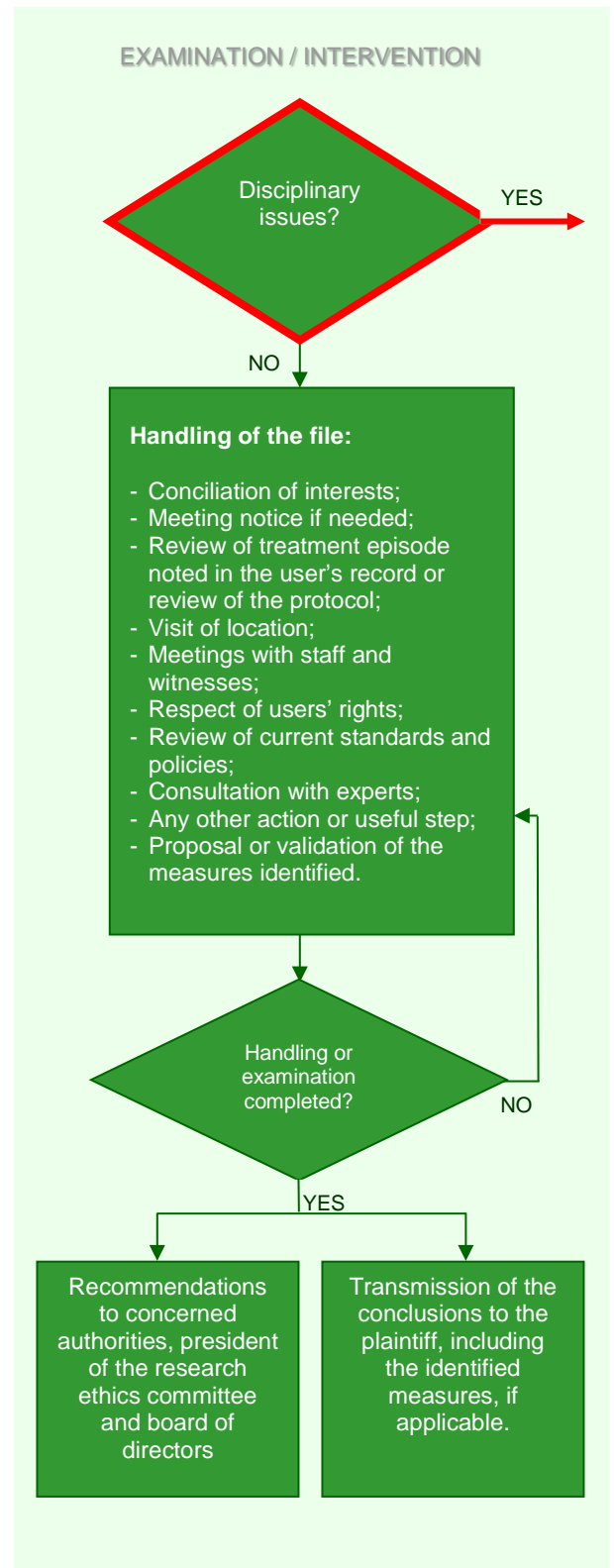
### **22. Consultations**

The commissioner may consult any staff member of the IUHSSC whose expertise is deemed useful. He may also consult an 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 person who made the complaint no later than 45 days following the receipt of such complaint accompanied, if applicable, by the recommendations he transmitted to the board of directors as well as the competent authorities. In the case of a written complaint, this information is provided in writing.

He must also inform the user of the recourse he may exercise before the Health and Social Services Ombudsman and how to exercise this recourse.



#### **24. Presumption**

When the commissioner fails to respect the time limit stipulated in the Act, he is deemed to have communicated negative conclusions to the person who made the complaint. 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 a IUHSSC department or service manager or, if applicable, the highest authority of the outside resource that is the subject of a complaint does not intend to act upon a recommendation made by the commissioner, he informs the executive director 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 users' satisfaction and respect of their rights.

#### **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 users' satisfaction and enforcement of their rights.

The board of directors shall examine any recommendation or report transmitted by the commissioner and make the decision it deems appropriate under the circumstances, taking into account, if applicable, the recommendations of the watchdog committee.

## SECTION 4 – EXAMINATION OF A COMPLAINT DEALING WITH ISSUES OF A DISCIPLINARY NATURE NOT INVOLVING THE MEDICAL EXAMINER

### 27. Disciplinary issues

During the course of the examination, when a practice or conduct of an employee raises questions of a disciplinary nature, the commissioner shall inform the department concerned, the IUHSSC Human Resources Manager, 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 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

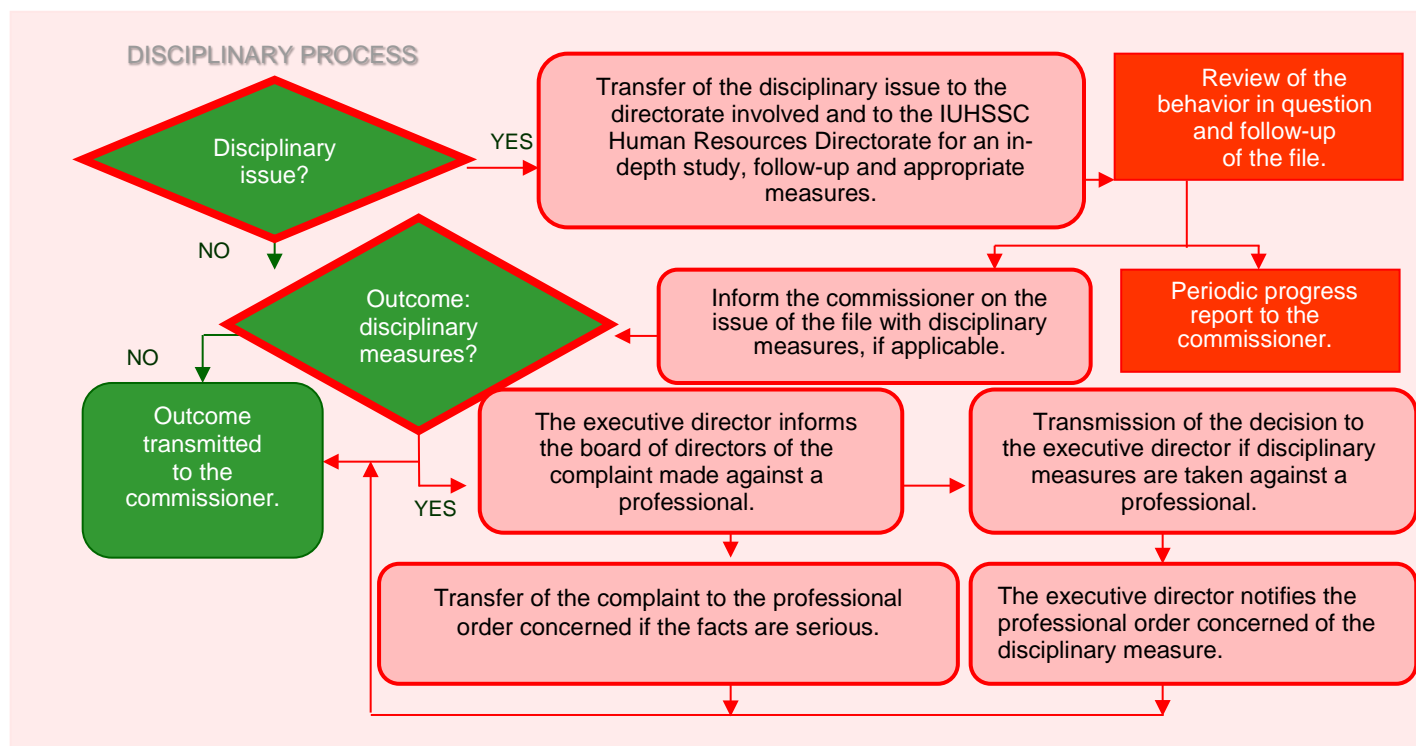
The authority implicated in the review of the disciplinary issues must diligently examine the complaint and periodically report to the commissioner on the progress of the investigation.

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 user and, if any disciplinary measure is taken against the professional, the executive director.

### 29. Disciplinary measures

When disciplinary measures are taken against a professional, the executive director must then inform the concerned professional order in writing and notify the commissioner. The latter informs the user in writing.

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 concerned and inform the commissioner. The latter informs the user in writing of the decision of the board of directors.



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

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

### 30. Complaint deemed 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 then informs the author of the complaint 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 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 examining the complaint in light of the available information.

When a complaint involves administrative or organizational problems implicating medical, dental or pharmaceutical services, the commissioner and the medical examiner must collaborate in assessing the complaint.

### 32. Disciplinary sanctions

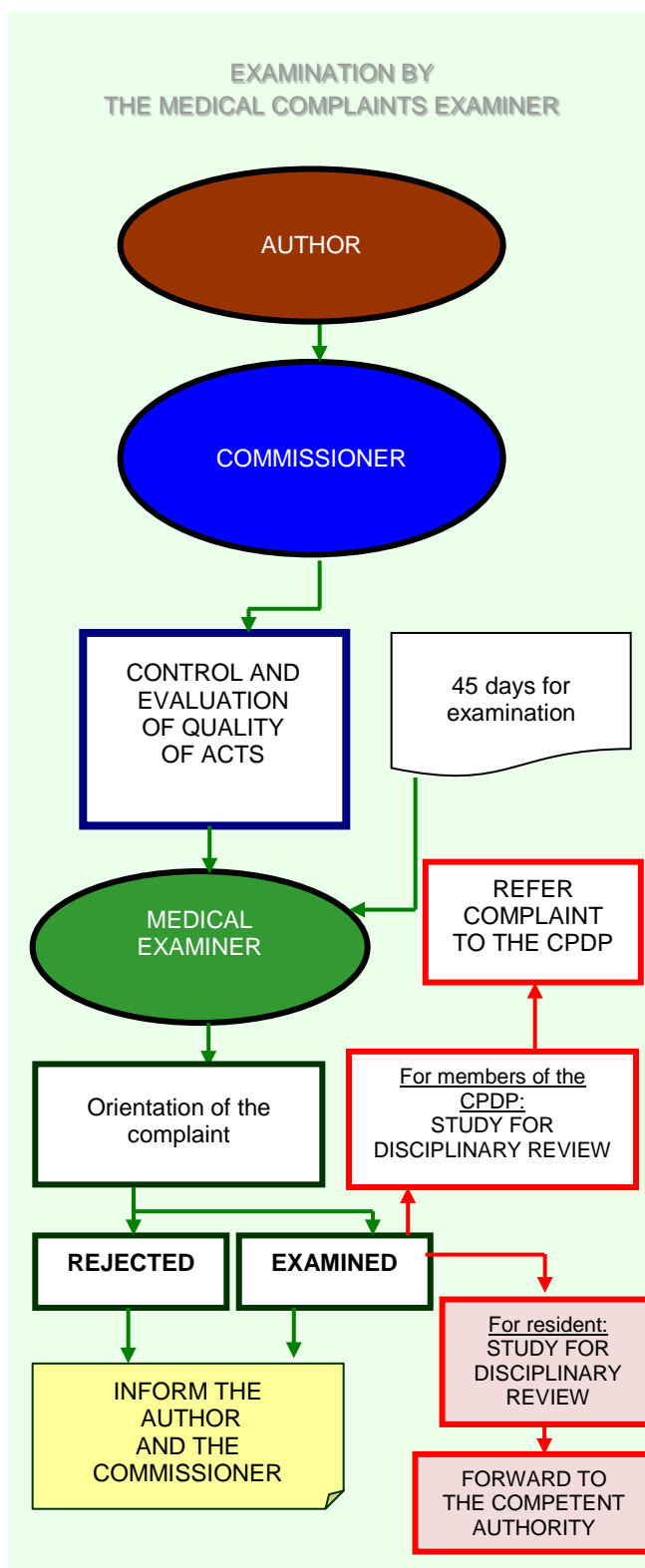
After his preliminary evaluation and upon finding facts requiring disciplinary investigation, the medical examiner must send a copy of the complaint concerning a member of the CPDP to the latter for examination in accordance with the rules in effect in the IUHSSC.

If the complaint concerns a resident, he refers a copy of the complaint to the competent authority, the McGill University's Associate Dean of Postgraduate Medical Education, Professional and Inter-hospital affairs, and informs the resident. It is expected that the associate dean will notify the medical examiner of the results of his study.

In all cases, the medical examiner must transmit a copy of his decision to the professional implicated in the complaint. The medical examiner shall also inform the author of the complaint and the commissioner.

### 33. Follow-up report

The medical examiner must inform the author of the complaint in writing on the progress of the investigation every 60 days from the date on which the latter was informed of the transfer of his complaint to the disciplinary committee for examination.



### 34. Examination by the medical examiner

The medical examiner may, after preliminary evaluation of a complaint, decide to proceed with his own examination. He must examine the complaint within 45 days of its referral by the commissioner.

### 35. Notice of examination

The medical examiner shall promptly send a written notification of his decision to examine such complaint to the author of the complaint as well as to the professional involved. The notice must state that each party may present its observations and shall set out the procedure as to how such observations may be made. For these purposes, the medical examiner shall establish procedures that permit all parties to present their observations. The notice sent to the professional named in the complaint must state that he may access the user's complaint record and set out the modalities to that end.

### 36. Conciliation

The medical examiner who examines a complaint must attempt to conciliate the interests involved. The medical 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 lessen the consequences or avoid its repetition. The medical examiner may, moreover, make any recommendation he deems appropriate.

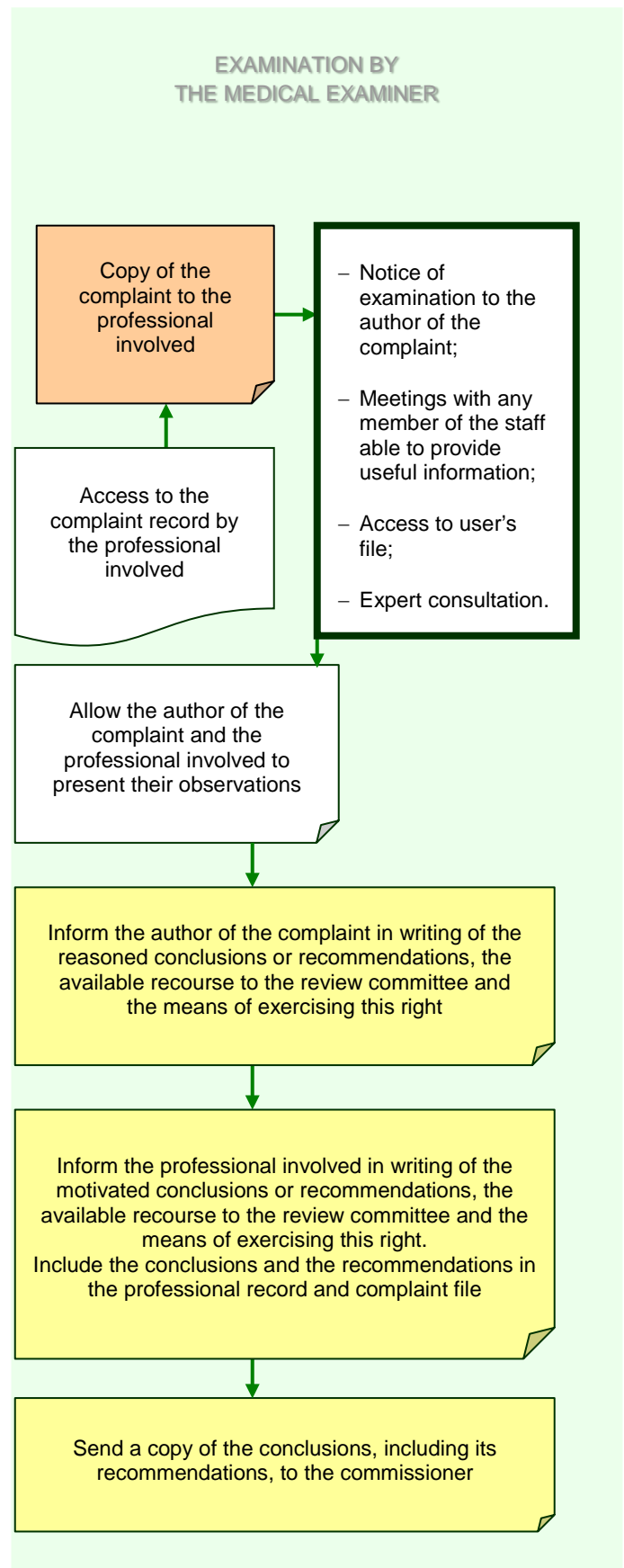
### 37. Notice of meeting

The medical 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 examiner or required to provide information is an employee of the IUHSSC or practices his profession in the institution, such person must comply with the medical examiner's request. Except with a valid excuse, any other person must attend a meeting called by the medical examiner.

### 38. User's record

The medical examiner shall have access to the user's record and to any information or document contained therein.

### 39. Consultations



The medical examiner may consult any staff member of the IUHSSC whose expertise is deemed useful. He may also consult an outside expert. External consultation by the medical examiner is exercised within the rules set by the board of directors.

#### **40. Conclusions and time limit**

The medical examiner must proceed diligently and communicate the conclusions of his examination including, if applicable, his recommendations to the author of the complaint, no later than 45 days following the date on which the complaint was transferred by the commissioner. He must also inform the professional involved in the complaint of his conclusions and, if applicable, his recommendations. He must inform both parties of the recourse and procedure for applying to the review committee. The medical 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.

#### **41. Presumption**

When the medical examiner fails to respect the 45 days delay, he shall be deemed to have transmitted negative conclusions to the author of the complaint. This person or the professional involved in the complaint may then exercise their recourse before the review committee.

#### **42. Report or recommendations**

The medical examiner may transmit to the board of directors and the CPDP any report or recommendation that he deems useful in the performance of his functions. Through the watchdog committee, he presents any recommendation for the improvement of the quality of medical, dental, and pharmaceutical care or service. A copy shall be sent to the commissioner.

#### **43. Appointment of a substitute medical examiner**

When the medical examiner is, or thinks he might be, in a situation of conflict of interest or role, he must inform the commissioner who, in turn, will inform the competent authorities to refer the examination to a substitute medical examiner.



## SECTION 6 – EXAMINATION OF A REQUEST FOR REVIEW BY THE REVIEW COMMITTEE APPOINTED BY THE BOARD OF DIRECTORS

### 44. Request for review

The author of the complaint or the professional (physician, dentist, pharmacist or resident) named in the complaint who disagrees with the conclusions transmitted or deemed to have been transmitted by the medical examiner, may request to have them reviewed by the review committee. Such request must be made in writing or verbally and sent to the chair of the committee at the IUHSSC Executive Office's address along with a copy of the medical examiner's conclusions

### 45. Reason for the request and exclusions

The request for review must relate to the examination of the complaint by the medical examiner. It may not relate to the summary dismissal of a complaint or to the medical examiner's decision to forward the complaint for disciplinary review.

### 46. 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 of 45 days if such conclusions have not been transmitted. The review committee may receive a request past the time limit if it deems it was impossible for the author of the complaint to act sooner.

### 47. Assistance

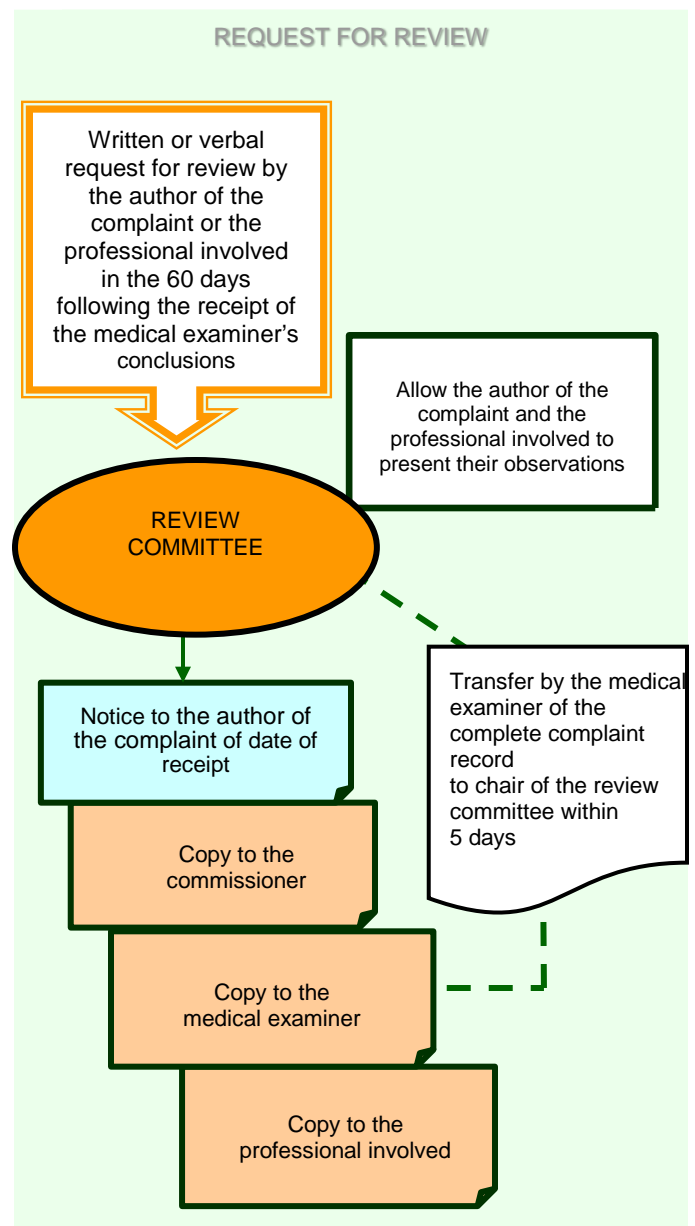
The commissioner must provide or ensure assistance to any person who wishes to submit a request for review, in particular by helping him with the preparation of the request and with any steps taken with the IUHSSC Users' Committee or the designated regional organization.

### 48. Notice of receipt

The chair of the 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 examiner and the commissioner. The notice must state that each party may present its observations and set out the procedures as to how such observations may be made.

### 49. Complaint record

The medical examiner shall transmit the complaint record to the review committee within five (5) days of receipt of the notice aforementioned.



## 50. Review

The review committee shall examine the complaint record, including the written or verbal request for review, and determine whether the medical examiner examined the complaint diligently and fairly. The review committee must also ensure, if applicable, that the conclusions of the medical examiner respect the rights of the parties as well as the applicable professional norms and standards.

## 51. Notice of meetings

The 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 review committee or required to provide information is an employee of the institution or practices his profession in the IUHSSC, such person must comply with the request of the review committee. Except with a valid excuse, any other person must attend a meeting called by the review committee.

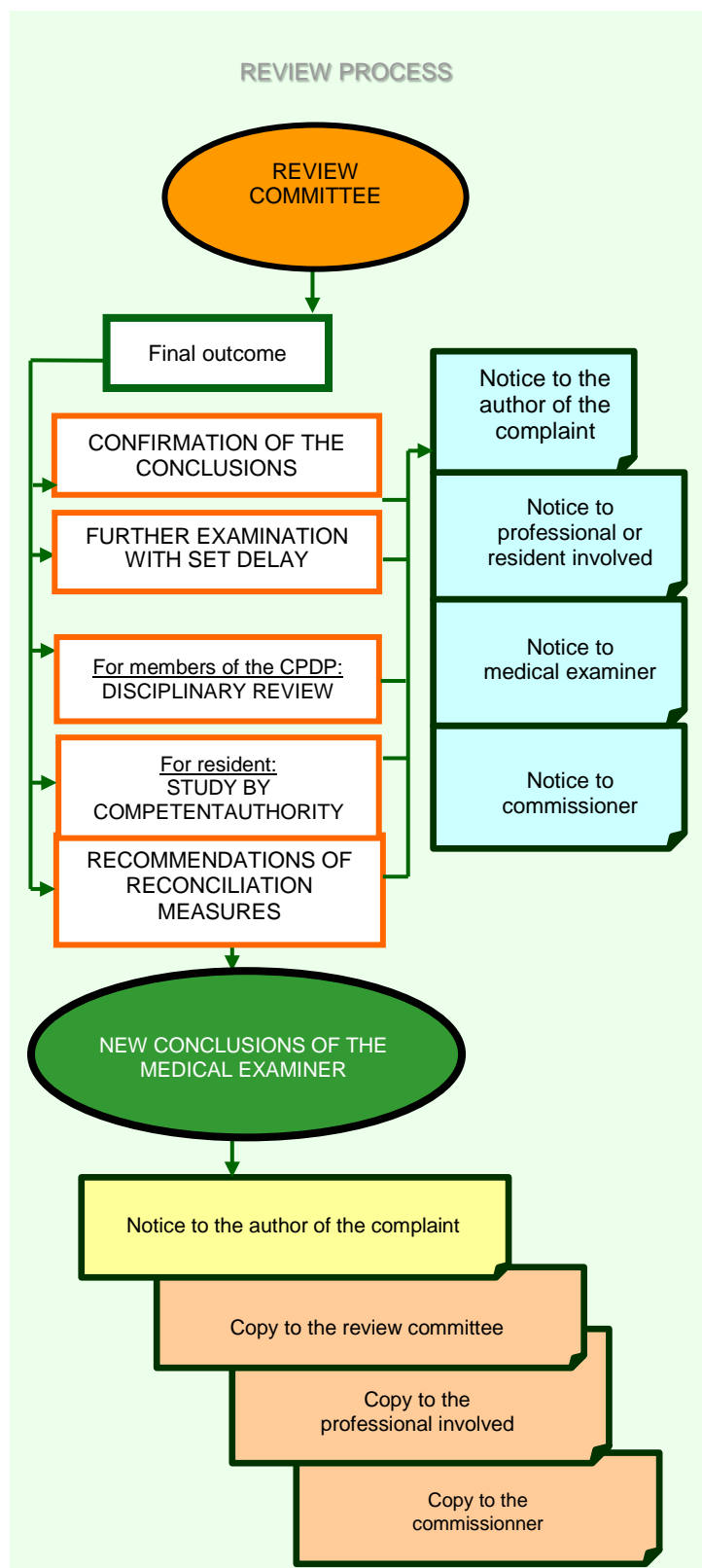
## 52. User's record

The review committee shall have access to the user's record and to any information or document contained therein.

## 53. Jurisdiction

The review committee must make one of the following decisions:

- a) Confirm the conclusions of the medical examiner;
- b) Require the medical examiner to carry out an additional examination within the delays prescribed by the committee and transmit his new conclusions to the author of the complaint, with a copy to the review committee, the professional involved as well as to the commissioner;
- c) Forward a copy of the complaint to the executive of the CPDP for a disciplinary investigation when the complaint involves a physician, dentist or pharmacist;
- d) Forward a copy of the complaint to the competent authority for disciplinary purposes when the complaint concerns a resident according to the regulation in virtue of subparagraph 2 of section 506 of the Act;
- e) Recommend to the medical examiner or, if applicable, to the parties themselves any action likely to resolve the matter.



#### **54. Decision**

The review committee must communicate a decision, including its reasons, within 60 days after receiving a review application 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 examiner. The committee's decision must be filed in the record of the professional involved as well as in the complaint record.

#### **55. Final decision**

The decision of the review committee is final.

#### **56. Report and recommendation**

The review committee may transmit to the board of directors and to the CPDP any report or recommendation it deemed useful in the performance of its functions with copies to the commissioner and the medical examiner. It can also do so through the watchdog committee for the improvement of the quality of medical, dental, and pharmaceutical care or service provided in the IUHSSC.

## **SECTION 7 – USER’S COMPLAINT RECORD**

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### **57. Creation of a complaint record**

A complaint record shall be created and kept by the commissioner, the assistant commissioner or, if applicable, by the medical examiner.

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

### **58. Content of the user’s complaint record**

Subject to a regulation adopted under subparagraph 23 of section 505 of the Act, the user’s complaint record must include any documents pertaining to the complaint and its handling produced or received by the commissioner, the assistant commissioner and, if applicable, by a medical examiner or the review committee.

### **59. Transmission to the Health and Social Services Ombudsman**

The commissioner must, within five (5) days of receipt of the written communication mentioned in the subparagraph 4 of the second paragraph of section 10 of the *Act Respecting the Health and Social Services Ombudsman* (CQLR, c. P-31.1), transmit a complete copy of the complaint record to the Health and Social Services Ombudsman in compliance with section 12 of the *Act Respecting the Health and Social Services Ombudsman*.

### **60. Prohibition**

No document in the user’s complaint record may be placed in the record of a IUHSSC staff member or of a CPDP member. However, the conclusions, including the reasons, of the medical examiner and, if applicable, the medical examiner’s accompanying recommendations and the review committee’s review notice, must be filed in the record of the professional named in the complaint.

### **61. Conservation and destruction**

Following its closure, the complaint record shall be kept for the period stipulated in the document conservation schedule adopted by Bibliothèque et Archives nationales du Québec (BAnQ). At the end of such period, the commissioner shall see to its destruction, according to the standards.

## **SECTION 8 – ANNUAL REPORT ON THE APPLICATION OF THE COMPLAINT EXAMINATION PROCEDURE, ON USER SATISFACTION AND THE ENFORCEMENT OF USER'S RIGHTS**

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### **62. Annual report of the institution**

According to section 53 of Bill 10, the board of directors shall transmit to the minister, once a year and each time it is required, a report on the application of the complaint examination procedure, user satisfaction and the enforcement of their rights. This report includes the commissioner's summary of activities, the medical examiner's report and that of the review committee in accordance with the Act. At the date set by the board of directors, the commissioner transmits the report referred to in section 76.11 of the Act.

### **63. Annual report of the commissioner**

Once a year and whenever the commissioner thinks it is warranted, he must transmit to the board of directors an annual report on the application of the complaint examination procedure, users' satisfaction and the enforcement of their rights describing the number of and reasons for the complaints received, and the number of complaints dismissed upon summary examination, examined, refused or abandoned. The annual report must indicate the time taken to examine the complaints, the actions taken following the examination of complaints 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 users and promote the enforcement of their rights. The report may contain any other recommendation the commissioner deems appropriate.

A copy of such report shall be incorporated to the IUHSSC report to be transmitted to the Minister as well as to the Health and Social Services Ombudsman.

### **64. Annual report of the medical examiner**

Once a year and whenever the medical examiner thinks it is warranted, he must transmit to the board of directors and to the CPDP an annual report describing the number of complaints transferred to him, the number of such transfers dismissed upon summary examination, examined, refused or abandoned, the number of complaints directed for disciplinary purposes as well as the reasons for the complaints he examined. The annual report must also contain the medical examiner's recommendations for improving the quality of the care and services in the IUHSSC. The report may contain any other recommendation the medical examiner deems appropriate. A copy of such report shall be transmitted to the commissioner who includes its content to the report that the IUHSSC must transmit to the Minister as well as to the Health and Social Services Ombudsman.

### **65. Annual report of the review committee**

Once a year and whenever the review committee thinks it is warranted, it must transmit to the board of directors and to the CPDP an annual report describing 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 review committee for improving the quality of the care and services. The report may contain any other recommendation the review committee deems appropriate. A copy of such report shall be transmitted to the commissioner who will incorporate it to the IUHSSC report to be transmitted to the Minister as well as to the Health and Social Services Ombudsman.

### **66. Ad Hoc Report**

Whenever required to do so, the board of directors must report to the Minister on any item of information covered under section 76.13 of the Act 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 user 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**

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### **67. Reprisals**

The commissioner, the assistant commissioner, the medical examiner or the chair of the 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.

### **68. Effective date**

The present by-law shall come into force on \_\_\_\_\_, upon adoption by the Montréal West Island IUHSSC's Board of Directors.

### **69. Revision**

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

**SCHEDULE I**

**OATH**



Centre intégré  
universitaire de santé  
et de services sociaux  
de l'Ouest-de-  
l'Île-de-Montréal



## DECLARATION UNDER OATH

I declare under oath that I will fulfill the duties of \_\_\_\_\_ dealing with the application of *An 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 the Act, any confidential information that may come to my knowledge in the exercise of my functions.

Before a witness, I sign in Montréal:

\_\_\_\_\_  
First name and Name in bold letters

This \_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
**Signature**

Declared under oath before me in Montréal

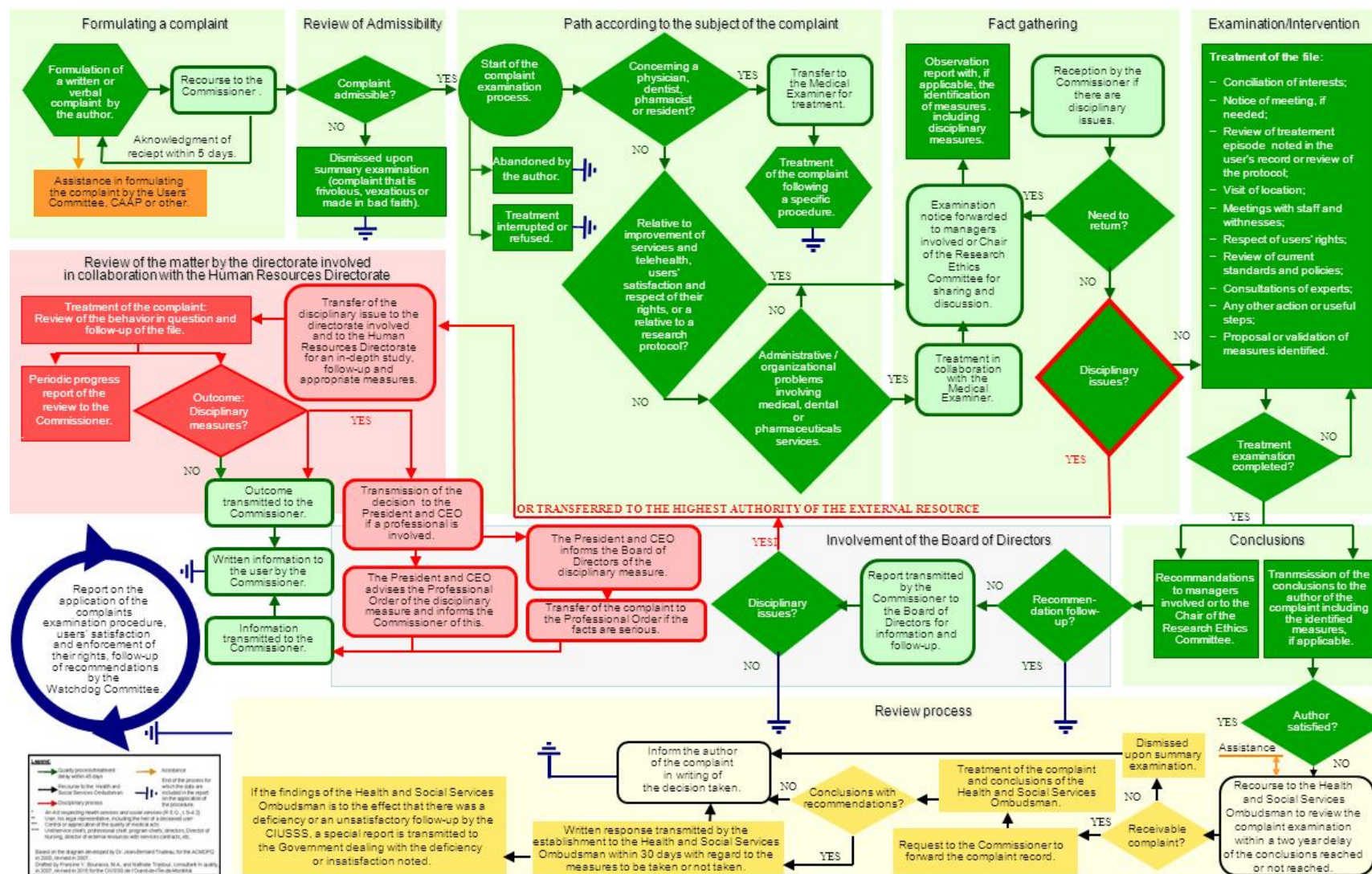
This \_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
**Signature of the person competent to witness an oath**

**SCHEDULE II**

**DIAGRAM OF THE PROCESSING OF COMPLAINTS  
AND IMPROVEMENTS BY THE COMMISSIONER**

## DIAGRAM OF THE PROCESSING OF COMPLAINTS AND IMPROVEMENTS BY THE COMMISSIONER



**SCHEDULE III**

**DIAGRAM OF THE REVIEW OF COMPLAINTS**  
**(MEMBERS OF THE CPDP)**



Act Respecting the Health and Social Services Ombudsman and amending various legislative provisions (Quebec, 2002)

