



Alberta College of
Speech-Language Pathologists
and Audiologists

Hear. Speak. Connect.

Jurisprudence Course

Module 5: Professional Conduct

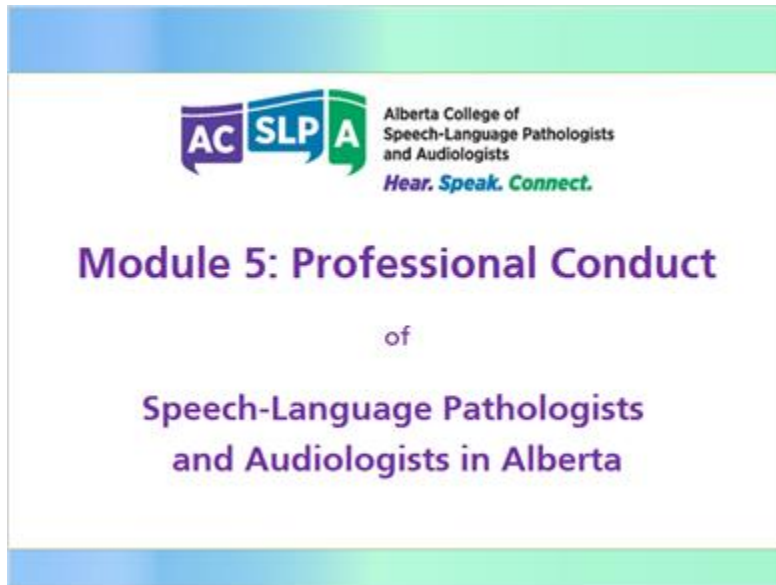
Handout

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Jurisprudence – Professional Conduct

1. Professional Conduct

1.1 Welcome



Narration

No narration, only music.

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1.2 Overview

Overview

- Professional conduct expectations*
- Causes of unprofessional conduct*
- Complaint process*
- Professional conduct hearings*
- Responding to complaints*



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Narration

JILL: Welcome to Module 5 of the Jurisprudence Course for SLPs and audiologists in Alberta. I'm Jill here with my colleague Mark.

MARK: Hi Jill. What topics will we be covering in this last module?

JILL: This module explores the professional conduct expectations of SLPs and audiologists in Alberta. The specific topics are: professional conduct expectations; common causes of unprofessional conduct; the processes for handling complaints as per the *Health Professions Act*; professional conduct hearings; and the actions regulated members should take if a complaint is filed against them.

MARK: All of these sound very important.

1.3 Conduct Expectations

Conduct Expectations

Provide competent, safe and ethical services

Comply with legislation and practice standards

Build trust and confidence in professions

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Narration

JILL: It is the expectation of the public, employers, other professionals and government that self-regulated professionals, including SLPs and audiologists, provide competent, safe, and ethical professional services.

They are expected to comply with the *Health Professions Act, Speech-Language Pathologists and Audiologists Profession Regulation*, other relevant legislation, *Standards of Practice* and *Code of Ethics*. Such professionals are conscious of their conduct and build trust and confidence in their profession.

1.4 Unprofessional Conduct

Unprofessional Conduct

Unprofessional conduct defined as:

- *lack of knowledge, skill or judgment*
- *contravention of Act, Code of Ethics, Standards of Practice or applicable legislation*
- *practicing without registration or practice permit*
- *not complying with condition on practice permit*
- *failure to comply with CCP*

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MARK: I know generally what “unprofessional conduct” means. But it would be nice to have some specific examples.

JILL: Under the *Health Professions Act*, “unprofessional conduct” means one or more of the following. Let’s do this together. You start.

MARK: Okay. Unprofessional conduct means displaying a lack of knowledge of, or lack of skill or judgement in, the provision of professional services.

JILL: Unprofessional conduct is contravention of the *Health Professions Act*, *Code of Ethics* or *Standards of Practice*.

MARK: Unprofessional conduct is the contravention of any other law that applies to the profession. For example, this might include failure to practice in compliance with privacy legislation.

JILL: Unprofessional conduct is representing or holding out that a person is a regulated member of their profession, when in fact the person’s registration or practice permit has been suspended or cancelled. In addition, it is important for individuals who change their registration

status to *Non-Practicing* to remember that they cannot represent themselves as a *Registered* member of ACSLPA. A *Non-Practicing* member of ACSLPA who plans to return to active practice cannot use the protected titles of their profession unless they include “Non-Practicing” in parentheses following the title.

MARK: Unprofessional conduct is representing that a regulated member’s registration or practice permit is not subject to conditions, when in fact it is.

JILL: Unprofessional conduct is failure or refusal to comply with the requirements of the Continuing Competence Program, or to co-operate with the Competence Committee, or with a person making a practice visit.

1.5 Unprofessional Conduct

Unprofessional Conduct

Unprofessional conduct defined as: *(continued)*

- *failure to co-operate with inspector*
- *refusal or ignoring directions of Registrar*
- *noncompliance with agreement of settlement*
- *not co-operating with investigator*
- *refusing to undergo examination*
- *failure to attend or produce*
- *conduct that harms integrity of profession*

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MARK: Unprofessional conduct is failure or refusal to comply with a request to co-operate with an inspector or to comply with a request or direction of the Registrar. The *Health Professions Act* allows Council to appoint inspectors for the purpose of determining whether a regulated member is complying with the *Act, Bylaws, Standards of Practice* and *Code of Ethics* of their profession.

JILL: Unprofessional conduct is failure or refusal to comply with an agreement that is part of a ratified settlement.

MARK: Unprofessional conduct is failure or refusal to comply with a request to co-operate with an investigator. The *Health Professions Act* allows the Complaints Director of the College to appoint an investigator to investigate complaints.

JILL: Unprofessional conduct is failure or refusal to undergo an examination under section 118; under this section of the *Health Professions Act*, if a Complaints Director has grounds to believe that a regulated member is incapacitated, they may direct that person to submit to a specified physical or mental examination within a specified time frame.

MARK: It is also unprofessional conduct to fail or refuse to comply with a notice to attend or a notice to produce under Part 4; this part of the *Health Professions Act* deals with the complaint process, alternative complaint resolution, investigations, hearings, decisions and appeals. Specific examples of unprofessional conduct would include failure to comply with a notice to attend a hearing or failure to provide requested documents in relation to the complaint process.

JILL: Unprofessional conduct is conduct that harms the integrity of the regulated profession. This includes any type of action that might harm the integrity or reputation of a profession.

These examples give us a pretty good idea of what constitutes unprofessional conduct.

MARK: Yes, this was very helpful.

1.6 Causes Exercise

Causes Exercise

What do you think are the 10 most common causes of unprofessional conduct?

YOUR ANSWER

Type your answers here and then click "Done"

DONE

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JILL: Our next topic is about some of the most common causes of unprofessional conduct. However, before we present these, here is an exercise to see what you think these are. When done the exercise, click the NEXT button to continue.

1.7 Causes

Causes of Unprofessional Conduct

The top 10 causes are:

1. Failure to stay professionally current
2. Failure to seek assistance or make referrals
3. Personal difficulties affecting work life
4. Alcohol and drug addictions
5. Poor communication

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JILL: Overall, in the context of the *Health Professions Act* definition of “unprofessional conduct”, the term refers to behaviour that is unskilled and/or unethical. Such behaviours would also be inconsistent with the professional practice expectations set out in the *Standards of Practice* and *Code of Ethics*.

James Casey, Q.C. of Field Law, practices in the area of administrative law and professional regulation. Based on his experience, he has developed what he refers to as his “unscientific list” of the top ten causes of unprofessional conduct. Let’s take a look at each of these causes.

MARK: Many complaints are filed in regards to professionals who fail to maintain currency of professional knowledge and competence. All professionals have an obligation to ensure that they are current and competent in their practice. The CCP of the College is one of the tools available to assist regulated members in this regard.

JILL: Unprofessional conduct may occur when a regulated member fails to seek assistance or make appropriate referrals when they encounter a difficult situation for which they do not have the necessary skills. It is important that each professional recognize their limitations and when

necessary, to seek assistance from a colleague or to refer the client to someone with the appropriate skills.

MARK: When a professional's personal difficulties begin affecting their work life, it is important to seek help or counseling before they become at risk of unprofessional conduct.

JILL: Alcohol and drug addictions are the root cause of some of the most serious cases of unprofessional conduct. It is important that professionals keep themselves well and seek help in a timely manner.

MARK: Poor communication is the root of many unprofessional conduct complaints. Clients are much less likely to file a complaint if they perceive that their service provider cared for, and communicated with, them.

1.8 Causes

Causes of Unprofessional Conduct	Menu
<p>The top 10 causes are: <i>(continued)</i></p> <ul style="list-style-type: none">6. <i>Failure to address client concerns</i>7. <i>Environmental factors</i>8. <i>Personality conflicts</i>9. <i>Complacency about professional standards</i>10. <i>Professional documentation</i>	<ul style="list-style-type: none">1.1 Welcome1.2 Overview1.3 Conduct Expectations1.4 Unprofessional Conduct1.7 Causes1.9 Complaint Process1.12 Filing a Complaint1.13 Acting on Complaint1.15 Informal Resolution1.16 Assessment1.17 Investigation1.18 Dismissal1.19 Incapacity Assessments1.20 Conduct Hearings1.22 Appeals1.23 Responding to Complaint1.24 Summary1.25 The End

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JILL: Complaints of unprofessional conduct are also commonly filed by clients who perceived that their concerns were not taken seriously or appropriately addressed. It is important to take all concerns and complaints seriously and communicate effectively. Individuals who feel that their concerns were taken seriously and dealt with effectively rarely file a complaint of unprofessional conduct with regulatory colleges. For most people, filing such a complaint is a last resort, when they believe that nothing else has worked.

MARK: Environmental factors such as excessive work demands, lack of mentoring or supervision, or inappropriate workplace stress may all contribute to a professional engaging in unprofessional conduct. It is important to remember that regardless of the environment, a professional has an obligation to ensure that they are practicing in compliance with the *Standards of Practice* and *Code of Ethics*. At times, it may be necessary to seek advice from a colleague, supervisor or the College.

JILL: Personality conflicts may escalate to unprofessional conduct. While there will always be some people who are difficult to get along with, all health professionals have an obligation to maintain a professional demeanor in their interactions with others. Any disputes should be resolved before they escalate to a major confrontation.

MARK: Complacency about professional standards is another common cause of unprofessional conduct. All professionals should continuously ensure that they understand and practice in compliance with their professional standards.

JILL: Failure to adequately document or chart is a common element in unprofessional conduct complaints. Good documentation practices are the best defense in terms of providing an objective account of what happened.

It is important to recognize that all professionals make mistakes. However, it is also important to learn from these mistakes and to be aware of how to conduct oneself in a professional manner.

MARK: This is a great reminder of the factors to be aware of in our practices that may result in complaints of unprofessional conduct.

JILL: I agree!

1.9 Complaint Process

Complaint Process

Complaints can be made by:

- *patient/client or family member*
- *regulated or former member*
- *another healthcare professional*
- *employer*
- *member of the public*

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JILL: We are now going to examine what happens when a complaint is filed against a regulated member of ACSLPA.

MARK: Who can file a complaint? Is it only our clients?

JILL: Actually no. Complaints can be filed from any of the following: a patient or client or a member of their family; a regulated or former member of ACSLPA; another healthcare professional; an employer; or a member of the public.

1.10 Complaint Process

Complaint Process

College recommends that the complainant:

- *approach regulated member directly*
- *approach regulated member's supervisor*
- *file a formal complaint if unable to resolve*

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MARK: So what happens when someone complains about a regulated member?

JILL: When ACSLPA is notified of a concern, the person is generally encouraged to first discuss their concern directly with the regulated member. If the two parties are unable to find a mutually satisfactory solution and resolve their difficulties, then the person who has the concern may wish to pursue the matter with the supervisor of the SLP or audiologist. If the issue is still not resolved in a satisfactory manner, a formal complaint may be filed with ACSLPA.

1.11 Complaint Process

Complaint Process

Complaint may be filed anytime

Employers must notify college if regulated member terminated, suspended or resigned in relation to unprofessional conduct



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JILL: A complaint may be filed anytime, including up to two years after an SLP or audiologist ceases to be registered with ACSLPA.

It should also be noted that employers have a legal obligation to inform a college if the employment of a regulated member is terminated, suspended, or if the regulated member has resigned for reasons related to unprofessional conduct. Such information is treated as a formal complaint.

All complaints are taken very seriously. The legislated obligations of ACSLPA in dealing with complaints are stated in section 4 of the *Health Professions Act*.

MARK: Are we now going to take a detailed look at the steps involved in the complaints process?

JILL: Yes we are.

1.12 Filing a Complaint

Filing a Complaint

Submitted to Complaints Director in writing

Must include:

- *name of regulated member*
- *detailed description of facts and events*
- *any other information / documents*
- *name, signature and contact information of complainant*

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JILL: Complaints may NOT be anonymous. They must be submitted to the Complaints Director in writing. Mark, what information should be included in a complaint?

MARK: A complaint must include: the name of the regulated or former regulated member involved; a detailed description of the key facts and events that occurred, including dates, times and location; any other information or documents that support the allegations being made; and the name, signature and contact information of the person filing the complaint.

1.13 Acting on a Complaint

Acting on a Complaint

Regulated member receives copy of complaint and asked to provide a response

Additional information gathered:

- interviews with involved parties*
- contacting other individuals / organizations*
- review of client files / records*

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JILL: Once a written complaint has been received by ACSLPA, the Complaints Director will begin a review. The review is designed to ensure fairness to both the complainant and regulated member.

MARK: Yes, the regulated member will receive a copy of the written letter of complaint and be asked to provide a response.

JILL: Additional information may be gathered through one or more of the following: interviews with the complainant, regulated member and other relevant parties; contacting individuals or organizations that may have relevant information; and review of client files and records.

It should be noted that even if a written complaint is not received, but the Complaints Director has reasonable grounds to believe the conduct of a regulated member constitutes unprofessional conduct, the Complaints Director may treat the matter as a complaint and act on it.

MARK: I didn't know that. What happens next?

1.14 Acting on a Complaint

Acting on a Complaint

Attempt informal resolution of complaint

Refer to alternative resolution process

Expert assessment and written report

Conduct an investigation

Dismiss complaint; and / or

Submit to physical or mental exams if believed to be incapacitated

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JILL: Within 30 days of receiving a complaint, the Complaints Director must give written notice to the complainant of the action that will be taken. This does not mean that the entire matter must be resolved within 30 days. Depending on the type of action taken and circumstances around the complaint, the process could take weeks or months before the matter is resolved.

MARK: I see that the *Health Professions Act* enables the Complaints Director to undertake several different actions. The first is to encourage the complainant and the investigated person to communicate with each other and resolve the complaint. Another action is for the Complaints Director to attempt to resolve the complaint, with the consent of both parties.

JILL: The Complaints Director can refer the complaint to an Alternative Complaint Resolution process. A request may be made for an expert to assess and provide a written report on the subject matter of the complaint.

MARK: The Complaints Director may conduct or appoint an investigator to conduct an investigation.

JILL: Finally the Complaints Director can dismiss the complaint, and/or direct the investigated person to submit to specified physical or mental examinations if the Complaints Director has grounds to believe the investigated person is incapacitated.

Each of these actions will be discussed further in the next few slides.

MARK: Oh, good.

1.15 Informal Resolution and ACR

Informal Resolution and ACR

Attempt to resolve complaint:

- *direct discussions between parties*
- *Complaints Director assists to resolve*

Alternative Complaint Resolution

- *neutral third party mediator*

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JILL: Certain types of concerns and problems are dealt with more effectively through discussion and resolution between the concerned parties, rather than through a more formal process where the regulated member of the profession faces allegations of unprofessional conduct and a hearing is held.

When appropriate, the Complaints Director will encourage the concerned parties to communicate with each other and resolve the issues surrounding the complaint. With the consent of both parties, the Complaints Director may also work with the parties in an attempt to resolve the complaint.

MARK: The Complaints Director may also suggest to the parties that they pursue an Alternative Complaint Resolution process to resolve the matter. This process includes involvement of a neutral third party who acts as a mediator to assist the parties to achieve a resolution and come to some form of agreement between themselves.

JILL: If these efforts to resolve a complaint are not successful, the Complaints Director will determine what steps to take next.

1.16 Assessment and Investigation

Assessment & Investigation

Expert review and report

Conduct or appoint an investigator

Powers of investigator:

- *require person to answer questions*
- *require relevant documents or items*
- *enter and inspect any premises*
- *investigate other matters*

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JILL: In some situations, the Complaints Director may determine that an assessment is required for the purpose of obtaining further information regarding the matter.

Specifically, the Complaints Director may request an expert to review and assess the issues surrounding a complaint and provide a written report. This process could involve a review of select client files for whom the investigated person provided services; providing an opinion as to whether or not the services provided constituted acceptable practice; and an opinion as to what would be considered acceptable practice related to the services provided to a given client.

MARK: The Complaints Director may also determine that an investigation is required for the purpose of obtaining further information regarding the matter. The Complaints Director may conduct or appoint an investigator to conduct an investigation. An investigator may be a qualified, unbiased SLP or audiologist. In some cases, an independent professional investigator may be hired by ACSLPA to conduct the investigation.

JILL: The *Health Professions Act* outlines the powers of an investigator. The investigator may require any person to answer any relevant questions. The investigator may direct questions to be answered under oath, if deemed necessary.

MARK: The investigator may require any person to provide any documents or items relevant to the investigation. The person must also allow the investigator to take copies of any documents.

JILL: The investigator may at any reasonable time enter and inspect any premises, except a private home, where the investigated person provides services.

MARK: The investigator also has the authority to investigate other matters unrelated to the original complaint that are related to the conduct of the investigated person.

1.17 Investigation

Investigation

Investigators may record interviews

Complaints Director may recommend condition on, or suspension of, practice permit

After investigation, report submitted

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JILL: Investigators may electronically record interviews with complainants, SLPs and audiologists, and other witnesses, to ensure the integrity of the investigation by providing an actual recording of the interview.

MARK: Depending upon the circumstances around the complaint, during the investigation process, the Complaints Director may make recommendations to the Registrar. One such recommendation could be that the investigated person be subject to conditions on their practice permit or suspension of their practice permit, pending the outcome of a professional conduct hearing.


JILL: Upon completion of the investigation, a report must be prepared and submitted to the Complaints Director. Based on the information provided in the report, the Complaints Director will then determine the next course of action. This could include requesting further investigation or assessments, dismissal of the complaint, or referral of the matter to a hearing.

1.18 Dismissal

Dismissal

A complaint may be dismissed if:

- *insufficient or no evidence*
- *deemed trivial or vexatious*



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JILL: The Complaints Director may dismiss a complaint if they are of the opinion that there is insufficient or no evidence to support the claim, or if the complaint is deemed trivial or vexatious. Upon being advised of a decision to dismiss a complaint, the complainant has the right to request a review of the decision.

1.19 Incapacity Assessments

Incapacity Assessments

Incapacitated means impaired ability to provide safe and competent services due to:

- *physical, mental or emotional disorders*
- *addiction to alcohol or drugs*

May be directed to seek treatment and cease practice

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JILL: Under the *Health Professions Act* “incapacitated” means suffering from a physical, mental or emotional condition or disorder, or an addiction to alcohol or drugs or other chemicals that impairs the ability to provide professional services in a safe and competent manner.

MARK: What happens if the Complaints Director of the College has grounds to believe that a regulated member is incapacitated?

JILL: In such circumstances, the Complaints Director may direct the individual to submit to specified physical or mental examinations. Depending on the examination results, the Complaints Director may direct the regulated member to seek treatment and to cease practice until such time that the Complaints Director is satisfied that the regulated member is no longer incapacitated.

1.20 Conduct Hearings

Conduct Hearings

Formal, legal proceeding by Hearing Tribunal

A hearing includes:

- investigated person and legal counsel
- Complaints Director
- legal counsel for the College
- members of the Hearing Tribunal
- legal counsel for the Hearing Tribunal
- court reporter
- witnesses called to testify

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Narration

JILL: In the event that the Complaints Director determines that there is sufficient evidence to support the complaint, the matter will be referred to a professional conduct hearing.

A hearing is a formal legal proceeding, conducted by a Hearing Tribunal, involving an internal professional review into the conduct of an SLP or audiologist by his or her peers, as well as public members who are appointed by the Alberta Government.

Mark, who is present at the hearings?

MARK: I would think that the following are typically present at such a hearing: the investigated person; legal counsel for the investigated person; the Complaints Director of the College; legal counsel for the College; members of the Hearing Tribunal; legal counsel for the hearing tribunal; a court reporter; and any witnesses who are called to testify. Did I miss anyone?

JILL: I don't think so.

1.21 Conduct Hearings

Conduct Hearings

Hearing Tribunal makes decision

Tribunal determines applicable penalties:

- *a caution*
- *reprimand*
- *practice permit conditions*
- *counseling or treatment*
- *course of study / supervised practice*
- *suspension or cancellation of practice permit*
- *fine and costs of hearing*

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JILL: During the course of the hearing, the Hearing Tribunal will consider the documented evidence as well as the testimony presented by the College, the investigated person, and any relevant witnesses. The Hearing Tribunal is responsible for conducting a full and fair hearing of allegations of unprofessional conduct. Its mandate is to determine on the basis of the evidence provided, whether the conduct of the SLP or audiologist constitutes unprofessional conduct.

MARK: If the Hearing Tribunal makes the decision that the conduct of the investigated person DOES constitute unprofessional conduct, as defined by the *Health Professions Act*, they will determine any penalties that will apply. These penalties may include: a caution, a reprimand, conditions being placed on a practice permit (such as practicing under supervision); requirement for counseling or treatment; requirement for course of study or supervised practical experience; suspension or cancellation of the practice permit; and payment of a fine and/or costs related to the hearing.

JILL: And we know that with the suspension or cancellation of the practice permit, the individual will NOT be able to work as an SLP or audiologist. So the consequences can be serious!

1.22 Appeals

Appeals

Decision of Hearing Tribunal may be appealed by:

- investigated person
- Complaints Director

Complainant does NOT have right to appeal



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MARK: Are there any mechanisms for appealing the decision of the Hearing Tribunal?

JILL: Yes there are. The decision of a Hearing Tribunal may be appealed to a college council by either the investigated person or the Complaints Director. Under the *Health Professions Act*, there are also provisions for the investigated person to appeal the decision of a college council to the Court of Appeal.

MARK: What about the person making the complaint? Do they have a right to appeal the decision of the Hearing Tribunal?

JILL: No. Under current legislation, the complainant does NOT have the right to appeal a decision made by a Hearing Tribunal.

1.23 Responding to a Complaint

Responding to a Complaint

Regulated members are advised to:

- *provide full cooperation*
- *gather as much information as possible*
- *respond promptly to the College, providing a full and detailed response*
- *submit all documents required by College*
- *not alter any documents*

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JILL: Our final topic in this module is about what a regulated member should do if a complaint is filed against him or her. When ACSLPA receives a complaint, the Complaints Director is required by law to review the complaint to determine its validity. Accordingly, the regulated member will be contacted and given direction on how to proceed.

Mark, what advice should we be giving to regulated members who are the subject of a complaint?

MARK: Regulated members are advised to provide full cooperation. Specifically, regulated members are advised to take the following actions if a complaint is filed against them: gather as much information as possible regarding the complaint; respond to the College promptly, providing a full and detailed response; submit all documents required by the College; and, do not alter any documents.

JILL: It is important to remember that the intent of the complaint process is to determine if a complaint is valid and if so, what corrective actions might be taken to assist the regulated member in returning to delivery of competent, safe and ethical professional services.

1.24 Summary



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Narration

JILL: This brings us to the end of our final module on professional conduct. Mark, one last time?

MARK: Okay! It is the expectation of the public, employers, other professionals and government that self-regulated professionals, including SLPs and audiologists, provide competent, safe, and ethical professional services. The *Health Professions Act* lists those actions that constitute “unprofessional conduct”; such actions refer to behavior that is unskilled and/or unethical. Such behaviors are also inconsistent with the professional practice expectations set out in the *Standards of Practice* and *Code of Ethics*.

We discussed the most common causes of unprofessional conduct. These include lack of competence, failure to seek assistance, personal difficulties, addictions, poor communication, poor documentation and record keeping, and a few others.

We then discussed the complaints process that included how to file a complaint; attempts to informally resolve the complaint; gathering data using experts and investigators; and the participants, process and possible outcomes of a professional conduct hearing.

We concluded the presentation with advice to regulated members who may be subject of a complaint. The most important thing is to provide full cooperation with the College in its investigation.

Did I miss anything?

JILL: No, those were the key points. This is the last module in this Jurisprudence Course. Mark and I enjoyed being your guides. We trust you have learned much about the regulatory environment affecting your speech-language pathology and audiology practices. I'm Jill saying goodbye for now.

MARK: And I'm Mark, saying goodbye as well.

1.25 The End



Narration

No narration, only music.

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