

KEEPING CURRENT

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The Complaint Process Before the College of Massage Therapists of Ontario (CMTO): What RMTs Need to Know

By Lad Kucis

Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

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As lawyers for registered massage therapists ("RMTs"), we are regularly asked questions about the complaints process before the College of Massage Therapists of Ontario ("CMTO").

Although the regulatory framework governing complaint matters is quite extensive, the following is the essential information that RMTs need to know.

Role of CMTO

At the outset, it is imperative that RMTs recognize that the mandate of the CMTO is to protect the public by ensuring that RMTs act in accordance with the *Massage Therapy Act, 1991*, standards of practice and the Code of Ethics. This public protection mandate underlies all actions taken by the CMTO.

Responding to a Complaint

If a complaint is filed against an RMT, the CMTO is required to provide the RMT with a copy of the complaint within 14 days.

The RMT then has 30 days to respond to the complaint. If a RMT requires additional time to prepare their response, they should contact the investigator assigned to the file to request an

extension. The CMTO will typically grant an initial request for an extension, as long as a valid reason is provided.

In responding to a complaint, it is important to ensure that the response is drafted in a clear and professional manner, addressing each of the concerns in a thorough, reflective and professional manner. It is also generally advisable to acknowledge shortcomings and set out practice changes that have been made and/or educational steps that have been taken.

If the complaint relates to a client matter, the CMTO will typically require the RMT to provide a copy of the client health record along with the complaint response.

A copy of the complaint response is then provided to the complainant, who is given an opportunity to submit a reply.

If the complainant submits a reply, the CMTO will typically provide the RMT with a copy of the reply and give them 14 days to respond.

If the RMT has any prior decisions before the CMTO, they will be provided with

copies of such cases along with an opportunity to submit written comments. These comments must be submitted separately from the complaint response, so as to ensure that they are not shared with the complainant.

ICRC Review

Ultimately, all of the documentation collected as part of a complaint matter is provided to a panel of the Inquiries, Complaints and Reports Committee (“ICRC”), which is comprised of RMT and public members, to determine the appropriate action to be taken. RMTs and complainants are not permitted to attend the ICRC meeting.

If the ICRC determines that there is no risk or minimal risk in respect of the conduct of the RMT, it will take no further action or provide written advice and recommendations. Neither of these dispositions result in a notation being made on the public register.

If the ICRC has a moderate level of concern, it may require the RMT to appear before it for a caution or require the completion of a Specified Continuing Education and Remediation Program (“SCERP”).

Such actions have become much more serious dispositions over the past several years, as legislative changes now require cautions and SCERPs to be posted on the public register, where they remain indefinitely.

The most serious action that the ICRC can take is to refer a RMT to the Discipline Committee on specified allegations of professional misconduct or incompetence. If a matter is referred to the Discipline Committee, a notation of that fact is immediately posted on the public register, which is available on the CMTO website, and the RMT will be provided a Notice of Hearing setting out the charges of professional misconduct.

With the exception of matters referred to the Discipline Committee, the ICRC will provide

reasons for its decision, as set out in a Decision and Reasons, which is provided to both the RMT and the complainant.

HPARB Review

Both the RMT and the complainant have the right to request a review of an ICRC decision to an independent tribunal called the Health Professions Appeal and Review Board (“HPARB”).¹ A key exception is that ICRC decisions referring complaint matters to the Discipline Committee cannot be appealed to HPARB.

In the past, the vast majority of HPARB reviews were requested by complainants. However, RMTs are increasingly requesting these types of reviews, as they are seeking to set aside ICRC decisions that have resulted in findings that are now required to be posted on the public register (i.e. cautions and SCERPs).

The conduct of an HPARB review involves the RMT and the complainant (or their respective counsel) making oral submissions regarding the reasonableness of the ICRC decision and/or the adequacy of its investigation. It is beyond the mandate of HPARB to engage in any other inquiries.

Following the review, HPARB may do one or more of the following:

- confirm all or part of the ICRC’s decision;
- send the matter back to the ICRC with recommendations. For example, HPARB may recommend that further investigations be conducted about a particular issue;
- require the ICRC to exercise any of its powers, other than to request a Registrar’s investigation. For example, HPARB may require the ICRC to take no further action in

¹ For more information about complaint reviews before HPARB, please see my articles, [“Complaint Reviews at The Health Professions Appeal And Review Board \(HPARB\): The Essential Information”](#), *Keeping Current*, January 6, 2025, and [“HPARB Complaint Reviews: 5 Tips for Regulated Health Professionals”](#), *Keeping Current*, January 20, 2025.



Final Comments

In view of the potential consequences, it is imperative that RMTs treat all complaints very seriously and take great care in preparing responses and any other submissions. Given the stakes involved, RMTs should also strongly consider obtaining assistance from experienced legal counsel to ensure that their interests are being properly protected.

About the Author

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law. As part of his practice, he provides advice and representation to RMTs and other regulated health professionals regarding the full spectrum of college matters, including complaints, investigations, discipline and appeals/reviews.

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