

# KEEPING CURRENT

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## Responding to Complaints Before the College of Registered Psychotherapists of Ontario (CRPO): A Defence Lawyer's Perspective

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.

**Lad Kucis**  
Partner  
416.864.3114  
lkucis@grllp.com

As legal counsel for psychotherapists, we are frequently retained to provide assistance in responding to complaints filed with the College of Registered Psychotherapists of Ontario ("CRPO"). Although the regulatory framework governing complaint matters is complex, the following summarizes the core information that psychotherapists should be aware of in order to navigate the process effectively.

### Role of CRPO

At the outset, it is imperative that psychotherapists recognize that the mandate of CRPO is to protect the public by ensuring that psychotherapists act in accordance with the *Psychotherapy Act, 2007*, the *Regulated Health Professions Act, 1991*, and the standards of practice. This public protection mandate underlies all actions taken by CRPO.

### Responding to a Complaint

If a complaint is filed against a psychotherapist, CRPO is required to provide them with a copy of the complaint within 14 days.

The psychotherapist then has 30 days to submit a written response to the complaint. If a psychotherapist requires additional time to prepare their response, they should contact the CRPO investigator assigned to the file to request a short extension (which is typically approved). In most cases, CRPO will also require the psychotherapist to provide a copy of the patient chart with their response.

It is important to ensure that the complaint response is drafted in a clear and professional manner – and thoroughly addresses all of the concerns raised. By proceeding in such a manner, the psychotherapist will not only improve their chances of obtaining a good outcome but will hopefully eliminate any requests for clarification or further information from CRPO.

Although CRPO has the authority to provide the complainant with a copy of the response, or a summary thereof, for their review and comment, it does not do so in all cases.

If the psychotherapist has any prior decisions before CRPO, they will also be provided with copies of such cases and an opportunity to make written comments.

### **ICRC Review & Decision**

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 psychotherapist and public members, to determine the appropriate action to be taken. Psychotherapists and complainants are not permitted to attend the ICRC meeting.

If the ICRC determines that additional information is necessary, it may request further details from either party or initiate a formal complaint investigation, which could include interviews with the parties and other relevant individuals.

On the other hand, if the ICRC concludes that it has sufficient information, it may proceed to issue a decision. The ICRC has a broad range of possible dispositions. For example, if it determines that the psychotherapist’s conduct poses little or no risk, it may take no further action or provide written advice.

Where the ICRC determines that there is a moderate level of concern, it may direct the psychotherapist to attend for a caution, complete a Specified Continuing Education and Remediation Program (“SCERP”), or enter into a remedial agreement. These are considered more serious dispositions because they are noted on the psychotherapist’s public register, which is publicly available on the CRPO website.

The most serious action the ICRC may take is to refer a psychotherapist to the Discipline Committee on specific allegations of professional misconduct or incompetence.

If a referral is made, a notation is immediately added to the public register and the psychotherapist will receive a Notice of Hearing outlining the charges.

For all matters not referred to the Discipline Committee, the ICRC issues a detailed Decision and Reasons, which is provided to both the psychotherapist and the complainant.

### **HPARB Review**

Both the psychotherapist 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”).<sup>1</sup> A key exception is that ICRC decisions referring complaint matters to the Discipline Committee cannot be appealed to HPARB.

Historically, most HPARB reviews were initiated by complainants. Increasingly, however, psychotherapists are requesting these reviews in order to challenge ICRC decisions that have resulted in notations on the public register (such as cautions and SCERPs).

An HPARB review consists of oral submissions from the psychotherapist and the complainant (or their respective counsel) addressing the reasonableness of the ICRC’s decision and/or the adequacy of its investigation. HPARB does not have the authority to conduct additional inquiries beyond this mandate.

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

- confirm all or part of the ICRC’s decision;
- make recommendations to the ICRC; or
- require the ICRC to exercise any of its powers, other than to request a Registrar’s investigation.

<sup>1</sup> 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 psychotherapists treat all complaints very seriously and take great care in preparing responses. Given the stakes involved, psychotherapists 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 psychotherapists and other regulated health professionals regarding the full spectrum of college matters, including complaints, investigations, discipline and appeals/reviews.

He can be contacted at 416.864.3114 or [lkucis@grllp.com](mailto:lkucis@grllp.com).

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