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NEW INFORMATION TO BE PLACED ON CMTO PUBLIC REGISTER – A SUMMARY OF THE CHANGES AND THEIR IMPACT ON RMTs

By **Lad Kucis**

At its meeting on December 7, 2015, the Council of the College of Massage Therapists of Ontario (CMTO) approved by-law changes to “By-Law No. 8: The Register and Registrant Information” (By-Law No. 8). These changes, effective January 1, 2016, require new types of information to be posted on the Public Register.

The nature and breadth of this new information is extensive and all Registered Massage Therapists (RMTs) would be well advised to have a firm understanding of what information is now to be posted, as well as the impact of these changes on their professional and personal lives.

Welcome to the new era of transparency and access to information – you have been forewarned.

New Information to be Posted

The following are some examples of the new types of information that are to be posted on the Public Register. For a full listing of items that are to be included on the Public Register, please refer to section 23(2) of the Health Professions Procedural Code and By-Law No. 8:

- **Business Websites and Email Addresses** – business websites and business email addresses, if any. Personal email addresses, however, are not posted.
- **Former Names** – any former, legal names under which a person has practised as an RMT. However, if an RMT feels that disclosure of a former name may jeopardize their safety, they can make a submission to the Registrar requesting that it not be posted.
- **Cautions** – “oral” or “written” cautions ordered by the Inquiries, Complaints and Reports Committee (ICRC), resulting from a complaint or Registrar’s investigation commenced on or after March 1, 2016. The information to be posted is to include a notation that a caution was ordered, a summary of the contents of the caution and the date of the ICRC decision.
- **Certain Specified Continuing Education or Remediation Programs (SCERPs)** – where the ICRC orders a SCERP that includes a “monitoring” component, a notation of the SCERP, a summary of the contents of the SCERP and the date of the ICRC decision are to be posted. As with cautions, this new requirement only applies to ICRC decisions resulting from a complaint or Registrar’s investigation commenced on or after March 1, 2016.

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Where the ICRC decision is under review or appeal, a notation of that fact is also to be made, which is to be removed once the review or appeal has been disposed of.

Information about the above described SCERPs is to be removed 2 years from the date of the ICRC decision or the completion of the SCERP, whichever is later. However, if the ICRC decision is overturned on review or appeal, the information will be removed immediately.

- **Criminal and Other Findings** – any criminal findings or findings under the *Health Insurance Act* or the *Controlled Drugs and Substances Act*, made on or after March 1, 2016. The information to be posted includes a summary of the finding and penalty, as well as the date of the decision.

Where a finding is under appeal, a notation to that effect is also to be posted until such time as the appeal is disposed of. The information is to be removed if the decision on finding and penalty is overturned, or if the member is pardoned, unless the RMT wishes the summary and fact of successful appeal to remain on the Public Register for a certain period.

- **Bail Conditions** – any existing conditions or restrictions, including effective date, related to the custody or release of the RMT, as imposed by a court or other lawful authority on or after March 1, 2016. On a related note, although criminal charges are not posted on the Public Register, RMTs are required to provide the CMTO with information regarding any criminal charges on their annual renewal form.

Impact of These Changes

The following are some likely ramifications flowing from the new information that is to be posted on the Public Register:

- **Increased Scrutiny of RMT Conduct** – in view of the new types of information that is to be posted on the Public Register, RMTs need to be more mindful of their conduct, both in their practices and in their personal lives.
- **Increased Number of Complaints/ Investigations** – it is fair comment to conclude that by posting the types of information captured by the by-law changes, we will likely see an increase in the number of complaints and Registrar's investigations.
- **Heightened Importance of Complaint/ Investigation Responses** – as cautions and SCERPs with a monitoring component are now to be posted on the Public Register, RMTs need to place an increased level of attention on responding to complaints and Registrar's investigations, even if the allegations do not appear overly serious. In most cases, the assistance of experienced legal counsel would be well advised, in this regard.
- **Reviews of ICRC Decisions** – RMTs should seriously consider requesting a review of an ICRC decision by the Health Professions Appeal and Review Board (HPARB), if a caution or a SCERP with a monitoring component has been ordered against them. In the past, RMTs rarely requested these reviews, as such information was not posted on the Public Register.

Lad Kucis provides advice and representation to RMTs and other health care providers with respect to regulatory matters. He can be reached at 416.864.3114 or lkucis@grllp.com.

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