

# Proposed Amendments to the Professional Misconduct Regulations are Coming Soon

**By Naakai Garnette, Director of Professional Conduct**

In Fall 2018, CMTO's Council will consider changes to CMTO's Professional Misconduct regulations (O. Reg. 544/94). The proposed changes are intended to clarify expectations around professional conduct and will ensure that CMTO's requirements for Massage Therapists (MTs) are consistent with other regulated health professionals in Ontario.

CMTO regulates Massage Therapy in the public interest under the authority of the *Regulated Health Professions Act, 1991* ("RHPA") and the *Massage Therapy Act, 1991*. The General Regulation (which contains provisions for professional misconduct) is derived from these Acts and has a section (Part VIII) that defines professional misconduct for MTs in Ontario.

The Professional Misconduct provisions set out the minimum expectations of integrity, client-centered care and professionalism expected of MTs. Professional misconduct is conduct that falls below the minimum expectations of these professional standards, as well as other legal and ethical standards.

Certain acts of misconduct are considered so serious that procedures for handling them are prescribed in the *RHPA* itself. For instance, the *RHPA* defines being found guilty of an offense relevant to a registrant's suitability to practise as professional misconduct. Sexual abuse of a client is also specified in the *RHPA* as professional misconduct, as is failing to cooperate with the Quality Assurance Committee.

Although some definitions of professional misconduct are set out in the *RHPA*, health regulators in Ontario also have the ability to expand these provisions and identify provisions that are more specific to their profession.

**CMTO's current Professional Misconduct provisions cover a wide range of professional activities, from record-keeping to billing practices, as well as unacceptable conduct such as abuse of a client, and inappropriate use of titles.**

In addition to the provisions of the Regulation, Massage Therapists also need to use their judgment in assessing what would constitute professional misconduct.

## **How the College Addresses Professional Misconduct**

All health Colleges have a complaints and discipline process. Any complaint or other reported concern about the conduct of a registrant is screened by the Inquiries, Complaints and Reports Committee (ICRC). The ICRC sits in panels of at least two MTs and one public member of Council. The ICRC investigates the concern and then determines how the complaint or reported concern should be dealt with. The ICRC can decide to take no action, direct the registrant to engage in remediation activities or caution the registrant, or refer the concern to a separate committee, the Discipline Committee, for a full hearing.

The Professional Misconduct provisions are first applied by the ICRC in determining if a complaint or reported concern should be referred to the Discipline Committee. If a complaint or reported concern is referred to the Discipline Committee for a hearing, the Discipline Committee then applies the Professional Misconduct provisions to determine if findings of professional misconduct can be made.

A finding of professional misconduct by the Discipline Committee can result in serious orders (e.g., a fine, terms, conditions and limitations, suspension or even revocation of a registrant's Certificate of Registration).

Once CMTO's Council has reviewed and approved a draft updated Professional Misconduct Regulations, they will be circulated for your feedback. Please stay tuned for more information in the coming months.