



## Investigation Fact Sheet for Facility Owners

An investigation has been commenced into the practice of a registrant/Registered Massage Therapist (“RMT” or “MT”) that has either worked at your practice previously or is currently employed at your business. RMTs are regulated health professionals governed by the College of Massage Therapists of Ontario (CMTO) and the *Regulated Health Professions Act, 1991* (RHPA), and the *Massage Therapy Act, 1991*.

An investigation is commenced in cases where either a formal complaint was received against the registrant and the Inquiries, Complaints and Reports Committee (ICRC) has requested an investigation be conducted; or the Registrar received information which forms a reasonable belief that a registrant may have committed an act of professional misconduct or is incompetent, and the ICRC approves the appointment of one or more ‘investigators’ to investigate and inquire into the practice of a registrant.

The role of the investigator is to be an impartial and neutral fact gatherer. The investigator’s role is not to make judgments, assess credibility or to prove the allegations against the registrant. The investigator’s role is solely to collect all evidence related to the investigation, as it exists within a registrant’s practice, and report their findings back to CMTO.

The investigation process is confidential, and as such, an investigator is not able to provide any information in relation to the investigation they are conducting or the specific allegations in relation to the registrant’s conduct.

### Investigator’s Access to Clinics and Records

Investigators are appointed under section 75 of the *Health Professions Procedural Code* (schedule 2 of the *RHPA*) to investigate allegations of professional misconduct or incompetence. Investigators are permitted to enter business premises and review and, if necessary, remove any documents including patient/client charts, appointment books and financial records, in relation to the investigation.

### Right of Access and Investigation

The investigator has the right to enter, at any reasonable time, the business premises of a registrant and may examine, copy and remove anything found there deemed relevant to the investigation. This includes equipment, documents including client records, and electronic data. The investigator also has the right to question any person on any matter relevant to the investigation.

It is an offence to obstruct the investigator or to withhold and/or conceal anything that is relevant to the investigation.

In addition, the *Health Professions Procedural Code* makes it very clear that the investigator’s right of access overrides all other confidentiality provisions in other *Acts*. The right of access and inspection includes facilities and records maintained under other legislation or authority including public hospitals,

home and community care, and long-term care facilities and in the private sector, including business contracts within an individual's practice setting.

This right applies to all practice locations for the registrant under investigation, not just their primary practice location, despite any business practice agreements, duration of employment or employment contract.

## **Personal Health Information Protection Act**

The *Personal Health Information Protection Act, 2004*, supports the investigator's right of access. The *Act* specifies that the investigator is not limited by the *RHPA*, and that a holder of personal health information can share the information with the College without client's consent.

## **Other Rights of Investigators**

In addition to the basic right of access and inspection, investigators are also permitted to:

- Summon a document (e.g., a document that is not in the possession of the registrant);
- Summon a witness to be examined under oath (e.g., where the witness will not voluntarily agree to an interview with the investigator);
- Obtain a search warrant; and
- Copy and remove documents and evidence.

## **Failure to Cooperate with Investigator**

A registrant has the obligation to cooperate fully with the investigator under the *Health Professions Procedural Code*. It is professional misconduct for a registrant to fail to cooperate with the investigator or to deny him or her access to anything relevant to the investigation during the examination of the registrant's clinic.

## **If You Have Concerns**

You have the right to ask the investigator to produce the document from the College appointing them. You can also request to see the photo ID of the investigator.

If you are still in doubt as to the authenticity of the investigator, please contact CMTO's Professional Conduct department at [professionalconduct@cmta.com](mailto:professionalconduct@cmta.com), 416-489-2626 ext. 127, or toll-free at 1-800-465-1933, ext. 127.

If you are unclear as to your duty to cooperate, please contact the College or seek legal advice from a lawyer.