



## Role of the Investigator

The role of the ‘investigator’ is to be an impartial, neutral fact gatherer. The investigator’s role is not to make judgments, assess credibility or to prove the allegations against the registrant/ Registered Massage Therapist (“RMT” or “MT”). The investigator’s role is solely to collect all evidence related to the investigation, as it exists within a registrant’s practice, and to report his or her findings back to the College of Massage Therapists of Ontario (CMTO).

Investigators cannot provide any information or advice in relation to the investigation they are conducting. Any inquiries should be directed to the Professional Conduct department at CMTO.

### Investigator’s Access to Clinics and Records

Investigators are appointed under section 75 of the *Health Professions Procedural Code* (a part of the *Regulated Health Professions Act, 1991* (RHPA)) to investigate an allegation of professional misconduct or incompetence. Investigators are permitted to enter business premises and review, and if necessary, remove any documents including patient/client charts.

### 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 computerized data. The investigator also has the right to question any person, including the registrant, on any matters 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. The right of access and inspection includes facilities and records maintained under other legislation or authority, including public hospitals, home and community care, 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 *Regulated Health Professions Act, 1991* (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 documents (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 fail to allow him or her to have access to anything relevant to the investigation during the examination of the registrant's clinic. In addition, according to the *Massage Therapy Act, 1991*, it is also professional misconduct for a registrant to verbally or physically abuse a representative of the College.

Any registrant deemed by the College to have either failed to cooperate with the investigator or to have either verbally or physically abused the investigator could face disciplinary proceedings for their conduct.

## If a Registrant has Concerns

A registrant has the right to ask the investigator to produce the document from the College appointing them. A registrant can also request to see the photo ID of the investigator.

If a registrant is 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 a registrant is unclear as to their duty to cooperate, please contact the College or seek legal advice from a lawyer.