

Guide to Reinstatement Hearings - Discipline

This guide is for general information only and should not be taken as legal advice. While the guide describes the application and hearing process that applies to reinstatement proceedings¹ initiated by a former registrant, it is meant to be read together with other information, including sections 72 and 73 of the [Health Professions Procedural Code](#) and Rule 11 of the [Discipline Committee Rules](#) (the “Rules”).

STARTING A REINSTATEMENT APPLICATION

When can I apply?

- If you are a former registrant whose certificate of registration was revoked as a result of a disciplinary proceeding (for professional misconduct or incompetence), you may apply in writing for the reinstatement of your certificate **1 year after the date of revocation**.
- If your certificate of registration was revoked due to a **finding of sexual abuse** of a client, you can apply for reinstatement **5 years after the date of revocation**.
- If you have previously applied for reinstatement and your application was unsuccessful, you **must wait 6 months** after the decision on your previous application before you can apply again.

Note: If there was a complainant in your original discipline proceeding, the College is required to tell the complainant about your application for reinstatement.

How can I apply?

Reinstatement proceedings are initiated by the former registrant who is seeking reinstatement. You first need to deliver a [Notice of Application - Reinstatement form](#) by serving it on the College in accordance with Rule 2.02 of the Rules, and file it with the Hearings Office in accordance with Rule 2.03.

Once your application form is processed, the Hearings Office will issue a Notice of Reinstatement Hearing to you and the College and advise you of next steps. Most applications are heard by a panel of the Discipline Committee.

¹ This guide does not apply to administrative reinstatement applications from registrants who have been suspended for [non-payment of registration fees](#) or [for failing to maintain or provide professional liability insurance](#).

What is required?

The onus is on you as the applicant to present evidence that will convince the hearing panel that reinstatement is appropriate (i.e. in the public interest) in your case.

You should include the following information in your Notice of Application:

- your current contact information, including an email address and telephone number;
- the order you are seeking from the panel;
- the grounds or reasons for the application;
- a summary of the evidence, including documents, that you intend to rely on; and
- the anticipated length of the hearing.

Along with your [Notice of Application - Reinstatement form](#), you must deliver 8 copies of all of the following documents in accordance with Rule 11(4) of the Rules:

1. The record of the original hearing. As defined in the Rules, these are copies of the exhibits from your discipline hearing and can include the Notice of Hearing, Decision, Reasons for Decision, and Order. You can contact the Hearings Office to obtain a copy of these documents.
2. The transcript of the original hearing. You may contact the Hearings Office for information on the court reporter who recorded the hearing so you can order copies.
3. The record of any previous applications of reinstatement filed with the College, including the record and transcript of any previous reinstatement hearing.
4. Any documents that you intend to rely on.

THE PRE-HEARING CONFERENCE (PHC)

The College will appoint a prosecutor (lawyer) to respond to your application.

Before your matter proceeds to a hearing, either you or the College may request a PHC. The purpose of the PHC is to facilitate discussions between you and the College and discuss the possibility of an agreement on some or all of the issues.

PHC discussions are confidential. The person who chairs the PHC can be a member of the Discipline Committee, but they will not be on the panel that hears your reinstatement application.

If you do not request a PHC but the College does, the Hearings Office must schedule the PHC in accordance with Rule 3.01 of the Discipline Committee Rules. You can also prepare a PHC Memorandum using Form 4, appended to the Discipline Committee Rules. Completion of this form is not mandatory, but it is helpful because it allows you and the College to state your

respective positions on the issues and get an assessment of the likely outcome of this hearing from an experienced member of the Discipline Committee.

If you do prepare a PHC Memorandum, you must send a copy to the College and to the PHC Chair. For instructions on how to file a PHC Memorandum, please refer to Rule 3.02(3).

You can obtain available dates for a pre-hearing conference by contacting the Hearings Office via email at hearings@cmtto.com. These meetings take place at the offices of the College. You can also request to participate by telephone.

You and the College can try to negotiate an Agreed Statement of Facts (ASF). The ASF is a written document that lists the facts that you and the College agree to. The document could shorten the length of the hearing because it may avoid the need to call evidence on the agreed upon facts. When the ASF is presented at the hearing, it is up to the hearing panel to decide if it will accept the document.

THE HEARING

If you and the College do not hold a PHC, or a PHC is held but hearing dates cannot be agreed to at that time, you can obtain available hearing dates by emailing the Hearings Office at hearings@cmtto.com.

Hearings usually take place at the offices of the College of Massage Therapists of Ontario at 1867 Yonge Street, Suite 810, Toronto, Ontario, M4S 1Y5. If the hearing will be held at a different location, the Hearings Office will provide you with notice as soon a hearing location has been determined.

Reinstatement hearings are generally open to the public. The hearing date, time and location are published on the [College website](#). The hearing is recorded by a court reporter who can then produce a transcript of the hearing.

In a reinstatement hearing, you as the applicant have the burden (or the responsibility) of proving why reinstatement is appropriate in your case. At the hearing, the panel will seek information that demonstrates you understand the significance of your past conduct and are governable. The panel will also look for evidence that the acts of misconduct or incompetence that led to the revocation of your certificate of registration are unlikely to occur if you return to practice.

The rules of evidence that apply to civil proceedings in Ontario also apply to reinstatement hearings. You may present your case, including calling any witnesses and introducing documents as evidence.

Evidence can include sworn testimony by a witness and documents that are entered as exhibits during the hearing. You can also make oral or written submissions. Submissions are not evidence. They are your arguments that explain to the panel how the evidence supports your case.

Witnesses can be summonsed. If you require a witness to attend your hearing and need to compel (require) their attendance, you can request a Summons to Witness Form from the Hearings Office. This process is outlined in Rule 9.06. The College has the right to cross-examine your witnesses.

After you complete your case, the College can then present its case, including calling any witnesses and introducing documentary evidence. You also have the right to cross-examine the College's witnesses.

Finally, you are entitled to accommodation with respect to the hearing under the [Ontario Human Rights Code](#). You must notify the Hearings Office as early as possible if you and/or your witnesses have accommodation needs during the hearing. If you and/or one of your witnesses require an interpreter, please notify the Hearings Office as early as possible.

PANEL DECISION AND REASONS

After hearing the evidence and submissions, the panel may:

- decide to reinstate your certificate and direct the Registrar to issue a new certificate;
- order the Registrar to impose terms, conditions or limitations on the certificate; or
- refuse your application.

The panel may make its decision on the same day as the hearing and provide oral reasons, with written reasons to follow. It may also provide its written decision and reasons later. The Hearings Office will send you or your representative the panel's decision and order by email and/or by regular mail.

If the panel denies your application, there is no right to appeal the decision to the Divisional Court. However, you do have the right to reapply after 6 months have passed from the date of the panel's decision to deny your application.

The outcome of the hearing and a summary of the decision will be published on the College's website and the public register. Written reasons will also be published on the [Canadian Legal Information Institute website \(CanLII\)](#).