

Discipline Committee Hearings Information for Witnesses for the College

We thank you for assisting the College with the prosecution of this case. You will meet with the College's lawyer shortly and you will be prepared for giving your evidence during the hearing.

Purpose of Disciplinary Proceedings

Regulation of the health professions has a mandate of public protection, not professional self-interest. The purpose of disciplinary proceedings is to help the College ensure that their mandate is carried out. Disciplinary proceedings ensure that members govern themselves in accordance with the *Regulated Health Professions Act, 1991*, the *Massage Therapy Act, 1991* in addition to other statutes and regulations governing the profession. This includes maintaining standards of practice, standards of knowledge and skill and standards of professional ethics.

Disciplinary proceedings also help the College preserve public confidence in the profession by:

- Providing public access to the discipline process through a public complaints process
- Allow the public access to discipline proceedings by way of open hearings; and
- Publishing the Discipline Committee's decision in our College publications and on our website

The Hearing

A Discipline Hearing is a full legal and adversarial process, much the same as any court proceeding with rules that dictate how the hearing will proceed. All witnesses will be sworn or affirmed as to the truth of their evidence before they are permitted to commence their evidence. Any documentary evidence to the hearing will be entered as exhibits during the hearings. With respect to decorum of the proceedings, the Panel of a Discipline hearing is given the same respect as a judge at a trial, in that, the Panel will enter the hearing room after other participants in the hearing have been seated. All persons present are required to stand when the Panel enters the room and they will remain standing

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until advised by the Chair to be seated. The same protocol applies when the Panel exits the hearing room.

The Individuals involved

The legal parties to a disciplinary proceeding are the College and the member against whom allegations have been made. The other participants involved in the hearing will include the Panel of the Discipline Committee, College Counsel (Prosecutor), Court Reporter, Independent Legal Counsel as well as College staff.

A panel of the Discipline Committee

The Panel is comprised of three to five individuals from the Discipline Committee of the College of Massage Therapists. There are public members as well as professional members comprising the panel. One panel member will act as the Chair and he/she has the responsibility to conduct the hearing fairly and efficiently.

The role of the panel is similar to that of a judge (and jury). The panel will render a decision and give its reasons. The decision becomes public information upon completion of the hearing.

The mandate of the panel is to:

- Consider the allegations set out in the Notice of Hearing and ascertain the facts of the case;
- Determine whether, upon the evidence and the facts so ascertained, the allegations have been proven, having regard to the applicable onus of proof;
- Determine whether, in respect of the allegations so proved, the member has committed an act of professional misconduct or is incompetent; and
- Determine the penalty to be imposed in cases where such findings have been made.

The College's Counsel (Prosecutor)

The College Counsel will present the available evidence to attempt to prove the allegations. The College Counsel has the burden proof in accordance with the burden in a civil case, namely on a balance of probabilities. The College Counsel must provide sufficient evidence to meet the applicable standard of proof to allow the Panel to make a finding(s) on the charges.

Independent Legal Counsel (ILC)

The College retains legal counsel to provide legal advice to the Panel. A Panel is permitted to seek legal advice from its own counsel with respect to legal issues that arise during the course of a hearing. The right to legal advice is important for the panel, as most panel members are not lawyers. The panel receives specific training in relation to their role in the discipline process; however, depending on the issues that may arise legal advice may be required. ILC will provide impartial legal advice to the panel to help the Panel make a legally correct decision. ILC will provide the legal position on any question of law, procedure or evidence. ILC does not vote or influence the Panels' decision.

Court Reporter

A court reporter transcribes verbatim the entire proceedings. The College is required to have and maintain the record in all disciplinary proceedings. The Reporter will transcribe verbatim the entire proceedings.

College Staff

Usually College staff will be present during the hearing. They are responsible for making all pre-hearing arrangements, such as ensuring the hearing room is booked arranging the reporter and ILC. Staff will also ensure the results of the hearing are distributed and published as required and will monitor the Member's compliance with any penalty order made by the Panel.

Additional Concerns for Witnesses

- Who will pay for my expenses?

The College will reimburse the following expenses:

1. Accommodations

Hotel accommodations will be arranged for those witnesses who require an overnight stay. Please contact the Manager of Investigations & Resolutions to discuss your needs. S/he will be able to assist you with your arrangements. The hotel should be able to bill the College directly for your room and parking.

2. Travel

The College will reimburse you for travel expenses including economy air or economy train or bus fare or car mileage (33 cents per km).

3. Attendance Allowance

You will be paid \$50.00 per day to cover your attendance at the College, which includes meals and incidental expenses. This is in accordance with the amount of money a person is entitled to when they participate in a proceeding before the Ontario Court (General Division).

- Can I have a support person attend with me at the hearing?

You are welcome to bring a friend, relative or other support person with you to the hearing. The College regrets, however, that it cannot cover the expenses of people traveling with witnesses.

- What should I wear?

Discipline hearings are formal proceedings. The Discipline panel and other participants will be wearing business attire to ensure an appropriate decorum.

- Can I be summoned to attend the hearing?

A summons is a legal document that requires a person to attend a hearing. If requested, the College's lawyer can provide you with a summons. You can use the summons to explain why you must be absent from work or other responsibilities. The College may issue a summons for non-complaint witnesses.