

# Frequently Asked Questions About the Complaints Process for Registrants

*This document is intended to provide additional information with regard to the complaints process at the College of Physiotherapists of Ontario*

*Note: Key Definitions\* and Links to Additional Resources are referred to at the end of this document*

## The College has received a complaint with regards to my practice: Once a Complaint Has Been Filed With The College

### **What happens after the College receives a complaint with regards to my practice?**

Staff from the Professional Conduct team will contact you to advise you that a complaint has been received. Within 14 days of our receiving/confirming the complaint, the College will send you a copy/summary of the complaint and a letter explaining the complaints process. The College will ask that you respond to the complaint within 30 days. In submitting your response to the College you will also be asked to send a copy of the patient chart (if relevant) and any additional information that would be helpful.

### **Do I need the patient's consent to provide their patient chart to the College?**

If the complaint was submitted by the patient, consent is implied and the College is not required to seek additional consent for you to release this information to the College. If, however, a complaint is submitted by a third party, a family member of the patient for example, the patient's consent to obtain his or her information may be requested and provided to you in order to facilitate the release of the chart. If you are unsure of your obligations in this regard, the Coordinator, Investigations can assist you with this.

### **Can College staff help me prepare my response?**

No. Staff with the Professional Conduct team are a resource to members of the public, the profession and the Inquiries, Complaints and Reports Committee (ICRC). In preparing your submissions, you should:

- read the complaint carefully and note each concern raised
- adopt a factual and objective manner in your response
- attempt to respond to each concern
- be clear and straightforward in your recollection of events
- review your response carefully
- remember that the complainant will receive a copy of your response

### **Can College staff provide me with advice related to my situation?**

Staff members from the Professional Conduct team at the College will provide advice relating only to the complaints process. The College's Practice Adviser can provide advice regarding the standards of practice for physiotherapists.

**When participating in the complaints process, should I obtain the advice of a lawyer or other legal representative? Will this be covered by my malpractice insurance?**

You may wish to contact your insurance carrier or professional association for additional information if this is something that you are considering.

**What happens after I send my response to the College?**

A copy of your response is forwarded to the complainant for their records. Your response may assist the complainant in deciding whether or not they wish to proceed with the complaints process.

This initial documentation is forwarded to a panel of the ICRC. In some instances, additional information may be obtained to assist the panel deliberating the matter. On occasion, an investigator may be appointed to meet with the primary parties and witnesses. In some circumstances an independent expert opinion might be obtained to provide additional information regarding the standards of practice in question. The Panel considers all of the information obtained by the College prior to making a decision.

**What are some of the timelines that I should know about?**

The Regulated Health Professions Act stipulates that a complaint should be disposed of within 150 days. While the College strives to comply with this requirement, it is not always possible. When delays occur after 150 days has passed, the parties will be notified as to the status of the complaint on a regular basis. The parties may contact the College at anytime to inquire as to the status of the complaint.

**What happens if during the course of the process someone is unable to meet a timeline?**

Staff with the Professional Conduct team will review all requests for an extension and if appropriate will agree to a short extension. In the event of a delay, both parties will be notified.

**When timelines are set, are they referring to business days or calendar days?**

The timelines refer to calendar days.

**During the complaints process, can I contact the College?**

Yes. Staff in the Professional Conduct team are available to answer questions about the process.

**What information will I receive from the College during the process?**

The College will provide you with the letter of complaint and/or any document used to clarify the complaint. At the conclusion of the investigation you will receive a document called the "Decision and Reasons for the Decision."

**Who are the members of the ICRC?**

The panel of the ICRC that reviews complaints is made up of five individuals; three physiotherapists and two members of the public who have been appointed by the government to the College's Council. That said, if a panel member has a conflict of interest with regards to a certain matter, they will not take part in any of the deliberations.

**How often does the ICRC meet?**

Generally, the panel of the ICRC reviewing complaints matters meets every 4 to 6 weeks.

## After the ICRC Has Made a Decision:

### What are the different outcomes at the end of the Complaints process?

The panel may:

- Take no further action
- Make recommendations or issue guidance or advice
- Issue a written caution
- Issue a verbal caution
- Invite the physiotherapist to enter into an Acknowledgement & Undertaking (contract) with the College where the physiotherapist agrees to remediation and /or on going learning initiatives
- Require that the physiotherapist participate in a specified continuing education and remediation program
- Accept or reject a resolution agreement reached through the Mediated Resolution Process (MRP)
- Refer the case to a Health Inquiry Panel if it is apparent that the physiotherapist may be suffering from a health condition or disorder which is affecting his or her ability to practice
- Refer the case to the Discipline Committee of the College if serious issues of incompetence or professional misconduct are identified and a hearing is warranted

### What kinds of cases are referred to the Discipline Committee?

A referral to the Discipline Committee is reserved for the most serious cases of professional misconduct or incompetence. Summaries of previous cases referred to the Discipline Committee can be found on the College's website at [www.collegept.org](http://www.collegept.org) (Physiotherapists/Professional Conduct/Hearings).

### How do I find out about the decision?

Both the physiotherapist and complainant will receive a document entitled "The Decision and Reasons for the Decision" approximately 4 to 6 weeks after the Committee makes its final decision.

### What can I do if I am not happy with the decision?

Both parties involved in the complaint matter have the right to request a review of the Committee's decision to the Health Professions Appeal and Review Board (the Board) if they believe that the Committee's investigation was inadequate or that its decision was unreasonable. The Board is an external review Board. Additional information about the Board can be found at [www.hparb.on.ca](http://www.hparb.on.ca). Currently, the review process takes 18 – 24 months to complete.

### Are any parts of the Complaints process, including the decision, made public?

All information related to the complaints process is held in the strictest confidence by the College and individuals who work at or on behalf of the College in various roles (experts, investigators, practice assessors and remediators). Additional information regarding the obligations around confidentiality can be found in the section 36 of the Regulated Health Professions Act. In the event that a matter has been referred to the Discipline Committee for a hearing, information regarding this referral will be made available on the public register and the College's website.

**Once the case has been decided, who has access to the information in the file?**

The information obtained throughout the investigation remains confidential. If, however, either party requests a review by the Health Professions Appeal and Review Board, the College is required to disclose its record of investigation to the Board. The Board will provide each party with a copy of the record. In addition, if a subsequent complaint of a similar nature is submitted against the same physiotherapist, the ICRC is advised that a prior complaint had been received and it will consider prior cases.

**Can the ICRC require me to apologize or provide the patient with a refund?**

No. The ICRC cannot compel a physiotherapist to apologize nor can it require financial compensation of any kind.

**If I wish to provide feedback to the College with regards to my experience, can I do this?**

Staff with the Professional Conduct team are continually looking for ways in which to improve the complaints process. When the parties are sent a copy of the panel's decisions and reasons, the College will also included an anonymous survey where participants will be able to share their feedback.

## General Questions

**Should I still treat the patient after he or she files a complaint?**

The College does not have the authority to prevent you from continuing to treat the patient, however, you may reasonably decide it is more appropriate to transfer care to another physiotherapist within your facility or discharge the patient in accordance with the College's discharge planning guidelines.

**How does the fact that the College has received a complaint regarding my practice affect my status with the College? Is this on my record?**

Your status as a registrant is not affected as a result of a complaint being submitted regarding your practice unless the matter proceeds to the Discipline or Fitness to Practise Committee for a hearing and a finding of professional misconduct, incompetence or incapacity is made. The fact that a complaint has been submitted does not appear on the public register, however, it does remain on file at the College and if a subsequent similar complaint is received the prior history is brought to the Committee's attention.

**Can I renew my annual registration while I am involved in the complaints process?**

Yes, physiotherapists involved in the complaints process are not restricted from renewing their certificate of registration.

**If the College has received a complaint regarding my practice, can I still practice as a physiotherapist?**

**Can I still supervise others? Can I provide expert opinions? Etc.**

You may continue to practice as a physiotherapist unless your Certificate of Registration are suspended or revoked or there are terms, limitations or conditions that would prevent you from acting in such a role.

**Does the College have to process every complaint that it receives?**

Yes –the Regulated Health Professions Act does not allow for the screening of complaints cases.

**If there was a complaint filed against me what would a future employer be told if they called the College?**

The employer would only be provided with information that is included on the public register.

**How many complaints does the College receive each year and how many of those are referred to the Discipline Committee?**

It is difficult to provide concrete numbers as the number of matters considered by the screening committees of the College vary each year. That said, on average the College will receive approximately 100 cases a year and of this number, only a very small percentage of cases (2-4%) are referred to the Discipline Committee for a hearing.

**Can I use the Decision of the Committee in other proceedings?**

The legislation that governs physiotherapists in Ontario prevents the use of a College decision in a civil proceeding.

## Additional Relevant Resources

Regulated Health Professions Act - <http://www.e-laws.gov.on.ca>  
Section 36 Confidentiality

Health Professions Procedural Code (Schedule 2 of the RHPA)  
Section 25-35 Complaints Process  
Section 75-79 Investigations

Professional Misconduct Regulation - <http://www.collegept.org/LiteratureRetrieve.aspx?ID=25391>

## Key Definitions

### **Regulated Health Professions Act**

The legislation which governs the practice of physiotherapists in Ontario. The second part of the legislation is called the Health Professions Procedural Code (Schedule 2)

### **Complainant**

The individual who files the complaint with the College

### **Registrant**

A physiotherapist who is registered with the College

### **Parties**

The complainant and the registrant who are involved in the complaints process

#### **Panel**

A group of individuals who are members of the Inquiries, Complaints and Reports Committee who are reviewing a given case

#### **Professional Misconduct Regulation**

The College's Professional Misconduct Regulation provides an overview of acts that are considered professional misconduct

#### **Sexual Abuse of a patient**

Sexual abuse of a patient by a physiotherapist means,

- (a) sexual intercourse or other forms of physical sexual relations between the member and the patient,
- (b) touching, of a sexual nature, of the patient by the member, or
- (c) behaviour or remarks of a sexual nature by the member towards the patient.

#### *Exception*

sexual nature does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

#### **Incompetence**

Where a physiotherapist's professional care of a patient displayed a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates that the physiotherapist is unfit to continue to practise or that the physiotherapist's practice should be restricted.

#### **Incapacity**

Where a physiotherapist is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the physiotherapist's practice be subject to terms, conditions or limitations, or that the physiotherapist no longer be permitted to practise

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