



## Investigation Fact Sheet for Facility Owners

An investigation has been commenced into the practice of a Registered Massage Therapist (RMT) 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. The governing legislation is the *Regulated Health Professions Act, 1991 (RHPA, 1991)* and the *Massage Therapy Act, 1991*.

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

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 the College.

The investigation process is confidential; an Investigator is not able to provide any information related to the investigation they are conducting or the specific allegations related to the registrant's conduct.

### Investigator Access to Clinics and Records

Investigators are appointed under section 75 of the *Health Professions Procedural Code (Schedule 2 of the RHPA, 1991)* to investigate allegations of professional misconduct or incompetence. Investigators are given special powers to enter business premises and review and, if necessary, remove any documents including client charts, appointment books and financial records, in relation to their investigation.

### Right of Access and Investigation

An Investigator has the right to enter the business premises of an RMT at any reasonable time. The Investigator may examine, copy and remove anything found on the premises that is 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 an Investigator or to withhold or conceal anything that is relevant to the investigation. Please be assured that any information collected as part of the investigation will be kept strictly confidential.

In addition, the *Health Profession Procedural Code* makes it very clear that the Investigator's right of access overrides all other confidentiality provisions in any other Act. The right of access and inspection includes facilities and records maintained under any other legislation or authority including public hospitals, Community Care Access Centres (CCACs), long-term care facilities, as well as those in the private sector, including business contracts within an individual's practice setting.

This right applies to all practice locations for the registrant/RMT 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. It expressly provides that the *RHPA, 1991* and the Investigator's powers are not affected by this Act and that holders of personal health information can share the information with the College without consent of the client.

## **Other Rights of Investigators**

In addition to the basic right of access and inspection, Investigators also have the following powers:

- To summons a document (e.g., a document that is not in the possession of the RMT);
- To summons a witness to be examined under oath (e.g., where the witness will not voluntarily agree to an interview with the Investigator);
- To obtain a search warrant; and
- To 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 Profession Procedural Code*. In fact, it is professional misconduct for a registrant to fail to cooperate with an Investigator or to fail to allow the Investigator to have access to anything relevant to the investigation during the examination of the registrant's clinic. The College appreciates your anticipated cooperation with our investigation.

## **If You Have Concerns**

You have the right to ask the Investigator to produce the College's document indicating their appointment as Investigator. You can also see the photo ID for the Investigator.

If you are still in doubt as to the authenticity of the Investigator, please contact Allana Di Marco, Investigations Specialist, Professional Conduct with the College at telephone number 416-489-2626 ext. 4127 or toll free at 1-800-465-1933 ext. 4127.

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