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PRIVACY POLICY

Preamble

Registered psychotherapists are a regulated health profession in Ontario under the *Regulated Health Professions Act, 1991* (RHPA). Under the RHPA, it is the duty of the Minister of Health and Long-Term Care to ensure that health professions are regulated and co-ordinated in the public interest.

The College of Registered Psychotherapists of Ontario was established by the *Psychotherapy Act, 2007* and has the following objects as set out in the Health Professions Procedural Code (being Schedule 2 to the RHPA) (RHPA Procedural Code):

1. To regulate the practice of the profession and to govern the members in accordance with the health profession Act, this Policy and the Regulated Health Professions Act, 1991 and the regulations and by-laws.
2. To develop, establish and maintain standards of qualification for persons to be issued certificates of registration.
3. To develop, establish and maintain programs and standards of practice to assure the quality of the practice of the profession.
4. To develop, establish and maintain standards of knowledge and skill and programs to promote continuing evaluation, competence, and improvement among the members.
 - 4.1 To develop, in collaboration and consultation with other Colleges, standards of knowledge, skill and judgment relating to the performance of controlled acts common among health professions to enhance interprofessional collaboration, while respecting the unique character of individual health professions and their members.
5. To develop, establish and maintain standards of professional ethics for the members.
6. To develop, establish and maintain programs to assist individuals to exercise their rights under this Policy and the Regulated Health Professions Act, 1991.
7. To administer the health profession Act, this Policy and the Regulated Health Professions Act, 1991 as it relates to the profession and to perform the other duties and exercise the other powers that are imposed or conferred on the College.

8. To promote and enhance relations between the College and its members, other health profession colleges, key stakeholders, and the public.
9. To promote inter-professional collaboration with other health profession colleges.
10. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.
11. Any other objects relating to human health care that the Council considers desirable.

In carrying out its objects, the College has a duty to serve and protect the public interest.

The legal powers and duties of the College are set out in the RHPA, the RHPA Procedural Code and the *Psychotherapy Act, 2007*. The activities of the College are subject to a number of oversight mechanisms including both general and specific oversight by the Ontario Minister of Health and Long-Term Care and specific oversight by the Health Professions Appeal and Review Board, the Health Professions Regulatory Advisory Council, the Fairness Commissioner of Ontario and the Courts.

In the course of fulfilling its mandate, the College may collect, use and disclose personal information regarding applicants for registration, registrants, registrants' clients and persons employed, retained, elected or appointed for the purpose of the administration of the Legislation. The personal information being collected is critical to the College's ability to effectively regulate the profession in the public interest.

Individuals who are employed, retained or appointed by the College as well as every member of College Council or a College committee are required by section 36 of the RHPA to maintain confidentiality with respect to all information that comes to their knowledge. Individuals who breach this provision face fines of up to \$25,000.00 for a first time offence and up to \$50,000 for a second or subsequent offence. (Section 36 of the RHPA is attached as Schedule 1 to this Privacy Policy.) In addition, personal information handled by the College is subject to the provisions of this Privacy Policy.

The College's collection, use and disclosure of personal information in the course of carrying out its regulatory activities are done for the purpose of regulating the profession in the public interest. These regulatory activities are not of a commercial character. Accordingly, the performance by the College of its statutory duties is not covered by PIPEDA. The College has adopted this Privacy Policy voluntarily to provide a mechanism through which the College can provide appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its statutory mandate under the RHPA, the RHPA Procedural Code and the *Psychotherapy Act, 2007*.

Definition of Terms

The following terms used in this Privacy Policy have the meanings set out below:

"**Board**" means the Health Professions Appeal and Review Board.

"**By-laws**" means the by-laws of the College passed under the authority of section 94 of the RHPA Procedural Code.

"**College**" means College of Registered Psychotherapists of Ontario.

"**Discipline Committee**" means the Discipline Committee of the College as required by the RHPA Procedural Code.

"**Inquiries, Complaints, and Reports Committee**" (ICRC) means the Inquiries, Complaints and Reports Committee of the College as required by the RHPA Procedural Code.

"**Legislation**" means the RHPA, RHPA Procedural Code, Profession Specific Act, Regulations and By-laws.

"**registrant**" means a member of the College.

"**organization**" includes an individual, a corporation, an association, a partnership, and a trade union.

"**client**" is deemed to include an individual to whom an applicant or registrant of the College has purported to provide professional services.

"**personal information**" means information about an identifiable individual but does not include the name, title, or business contact information of an individual.

"**Privacy Committee**" means the Executive Committee.

"**Profession Specific Act**" means the *Psychotherapy Act, 2007*.

"**Registration Committee**" means the Registration Committee of the College as required by the RHPA Procedural Code.

"**Regulations**" means the regulations made under the RHPA and/or regulations made under the Profession Specific Act.

"**RHPA**" means the *Regulated Health Professions Act, 1991* as amended from time to time.

"**RHPA Procedural Code**" means the Health Professions Procedural Code (being Schedule 2 to the RHPA).

Principle 1 – Accountability

The Deputy Registrar is accountable for compliance with these policies and procedures. Complaints or questions regarding the manner in which personal information is being handled by the College should be directed to the Deputy Registrar who can be reached via info@crpo.ca.

The College will provide orientation and training to all new employees and appointees as well as all members of Council, committees or working groups regarding their obligations pursuant to section 36 of the RHPA and this Privacy Policy.

The College's policies regarding privacy and information management are available on the College's website and on request by phone at 416-479-4330 or 1-844-712-1364.

Principle 2 – Identifying Purposes

The purpose for which the College collects, uses and discloses personal information is to administer and enforce the Legislation.

Information About Registrants

The College collects and uses personal information regarding its registrants for the following purposes:

- to assess whether an applicant meets the standards of qualification for issuing a certificate of registration;
- to investigate complaints and reports regarding the conduct or actions of a registrant of the College;
- to inquire whether a member is incapacitated;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings, advice, cautions, and specified continuing education and remediation programs (a SCERP) that may provide for reviewing samples of client records;
- to hold a hearing of allegations of a registrant's professional misconduct, incompetence, or incapacity;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its members;
- to administer the program established by the College to provide funding for therapy and counselling for persons who, while clients, were sexually abused by registrants of the College;
- to assess whether a former member's certificate of registration should be reinstated;
- to provide statistical information for human resource planning and demographic and research studies for regulatory purposes including providing that information to the Ministry of Health and Long Term Care and other appropriate agencies;
- to provide information about registrants to the public for regulatory purposes on the public register, which is located on the College's website.

- to administer or enforce the Legislation.

The College may collect personal information regarding a registrant from the registrant, employers and colleagues of the registrant, clients of the registrant and other persons, for the purposes set out above. Personal information regarding registrants is collected by the College from time to time and at regular intervals.

The College discloses personal information regarding its registrants only as permitted by section 36 of the RHPA or as required by law. For example, the College is required under the RHPA Procedural Code to maintain a register containing information about its registrants. Such information includes but is not restricted to: registrants' qualifications and practice information; criminal findings of guilt against a registrant unless that finding has been overturned on appeal or there has been a pardon or record suspension; referrals to the College's Discipline Committee until the matter has been finally resolved; and the result and a synopsis of the decision for every finding made against a registrant as a result of a disciplinary or incapacity proceeding. The RHPA Procedural Code and the By-laws require the College to post the register on the College's website.

Information About Employers, Colleagues and Clients

The College collects and uses personal information regarding the employers, colleagues and clients of registrants of the College for the following purposes:

- to assess whether an applicant meets the standards of qualification for a issuing certificate of registration;
- to investigate complaints and reports regarding the conduct or actions of a registrant of the College;
- to inquire whether a registrant is incapacitated;
- to hold a hearing of allegations of a registrant's professional misconduct, incompetence, or incapacity;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings, advice, cautions, and specified continuing education and remediation programs (a SCERP) that may provide for reviewing samples of client records;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its registrants;
- to administer the program established by the College to provide funding for therapy and counselling for persons who, while clients, were sexually abused by registrants of the College;
- to assess whether a former registrant's certificate of registration should be reinstated;

- to provide information about registrants to the public for regulatory purposes such as public register information and information about discipline hearings
- to administer or enforce the Legislation.

The College may collect personal information regarding an employer, colleague and client of a registrant of the College from the employer, the colleague, the client, the registrant and other persons, for the purposes set out above.

The College discloses personal information regarding the employers, colleagues, clients of registrants of the College only as permitted by section 36 of the RHPA or as required by law. For example, hearings of the Discipline Committee are required, subject to certain exceptions, to be open to the public. Evidence at a hearing of the Discipline Committee may include personal information regarding the registrant of the College who is the subject of the allegation of professional misconduct or incompetence, as well as personal information regarding the registrant's clients related to the allegations of professional misconduct or incompetence. Another example of disclosure of personal information about clients of registrants of the College relates to complaints regarding the conduct or actions of registrants of the College. Where a complainant, who is frequently a client of a registrant, or a registrant does not agree with a decision of the ICRC, subject to certain exceptions, either person can request a review by the Board. The RHPA Procedural Code requires that the College disclose to the Board a record of the investigation and the documents and things upon which the decision was based. This disclosure of personal information about a client of a registrant to the Board is required under the RHPA Procedural Code.

Information About Applicants for Registration and Potential Registrants

The College collects and uses personal information regarding applicants and potential registrants and the clients of applicants and potential registrants to assess whether an applicant or potential registrant meets, and continues to meet, the standards of qualification to be issued a certificate of registration, and to administer or enforce the Legislation. The College discloses personal information regarding applicants and potential registrants, references about them and their clients only as permitted by Section 36 of the RHPA or as required by law. For example, the RHPA Procedural Code provides a procedure for an applicant who does not agree with a decision of the Registration Committee to request a review or a hearing by the Board. The RHPA Procedural Code requires that the College disclose to the Board a copy of the order and reasons of the Registration Committee and the documents and things upon which the decision was based. This disclosure of personal information to the Board is required under the RHPA Procedural Code.

Information Related to Unauthorized Practice and Holding Out

The College collects and uses personal information regarding individuals who may be practising the profession of psychotherapy, using protected titles or holding themselves out as practicing the profession and their clients to investigate whether the individual has contravened or is contravening the Legislation and to administer or enforce the Legislation. The College discloses personal information regarding such individuals only as permitted by section 36 of the RHPA or as required by law.

Information Related to Administering the Legislation

The College collects and uses personal information regarding individuals who are retained, elected or appointed for the purpose of the administration of the Profession Specific Act including the following:

- to review prospective candidates and retain or appoint persons for the purpose of the administration of the Act;
- to maintain records to ensure accurate remuneration and payment of expenses, and all documentation required by law and by the various levels of government in accordance with sound accounting practices;
- to communicate with the person (e.g., home contact information);
- to maintain accurate and fair accounts of any disputes, possible conflicts of interest or misconduct involving a person retained or appointed for the purpose of the administration of the Act or a member of the Council or committee of the College;
- for purpose of making payments and providing benefits.

The College discloses personal information regarding the individuals referred to above only as permitted by section 36 of the RHPA or as required by law.

Specifying the Identified Purpose

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected, either at the time of collection or after collection but before use, except where to do so would defeat the purpose of the Legislation or be inconsistent with the Legislation.

The College will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.

Where personal information is collected for one purpose, the College has the right to use and disclose the information for another regulatory purpose where it is in the public interest to do so. For example, the ICRC will receive all information, documents and reports concerning a registrant, no matter what the originating source. Further, the ICRC is required to review and consider the prior history (i.e. previous complaints or reports), including prior decisions dismissing a complaint or concern. In certain situations, the complainant may also obtain access to the registrant's prior history.

Principle 3 – Consent

The College collects personal information for purposes related to its objects (see Preamble for the College's objects) including for the purpose of the proper administration and enforcement of the Legislation and for other related regulatory purposes. In carrying out its objects, the College has a duty to serve and protect the public interest.

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected as described in Principle 2. For example, applicants for registration are informed about the collection, use and disclosure of personal information prior to submitting an application.

In many cases, obtaining consent of the individuals would defeat the purposes of the College's collecting, using and disclosing the personal information. Personal information will only be collected, used and disclosed without the knowledge and consent of the individual for the purpose of the administration or enforcement of the Legislation and in accordance with any applicable provisions of the Legislation. For example, personal information about a client may be collected and used without the client's consent for the purpose of an investigation of a registrant in accordance with the RHPA Procedural Code and the Regulations. Where practicable, the College will request client consent before collecting personal information such as their health record.

Principle 4 – Limiting Collection

The College collects only the personal information that is required for the purposes identified in Principle 2 of this Privacy Policy. The College collects personal information using procedures that are fair and lawful.

Personal information regarding clients must be collected as part of the College's regulatory function. This information is typically obtained by the College as part of an investigation. The focus of these inquiries is the conduct, competence or capacity of the registrant and the protection of the public. The College only collects personal information regarding clients to satisfy this regulatory purpose.

Where practicable the College avoids collecting personal information. For example, peer assessors may view redacted client records as part of the quality assurance program, and not retain a copy.

Principle 5 – Limiting Use, Disclosure or Retention

The College uses personal information only for the purposes identified in Principle 2 and in accordance with the provisions of the Legislation. Personal information is only disclosed in accordance with the provisions of section 36 of the RHPA or as required by law.

The RHPA Procedural Code and By-laws clearly designate the information regarding registrants that is publicly available. The By-laws can be accessed from the College website or by contacting the College. In addition, under the RHPA Procedural Code, the College is required to publish certain information regarding discipline hearings conducted by the Discipline Committee.

Under the RHPA Procedural Code, discipline hearings conducted by the Discipline Committee are usually open to the public. Evidence at a discipline hearing may include personal information regarding the registrant and the registrant's clients, employers and colleagues related to allegations of professional misconduct or incompetence. Under the RHPA Procedural Code, the panel of the Discipline Committee has discretion to close a hearing under certain prescribed circumstances and/or restrict the publication of

personal information where appropriate. Under the RHPA Procedural Code, reviews of decisions of the ICRC and Registration Committee by the Board are open to the public. Similarly, the Board has discretion to restrict the disclosure of personal information in its review process. The objective of these regulatory processes is always protection of the public.

Principle 6 – Accuracy

It is in the best interest of the public that the College collect, use and disclose only accurate personal information in regulating the profession. The College therefore uses its best efforts to ensure that the information it collects, uses and discloses is accurate. However, in order to be accountable for its collection, use and disclosure of information, the College makes corrections to information without losing the original entry.

Registrants are required to provide the College with current name, contact and employment information and to advise the College of changes within *thirty (30) days* of any change. This information is also updated annually when registrants renew their registration with the College.

Principle 7 – Safeguards

The College ensures that personal information it holds is secure.

The College ensures that personal information is stored in electronic, and where necessary physical files, that are secure. Security measures are in place to safeguard this information which include restricting access to personal information to authorized personnel, ensuring that physical files are under lock and key and ensuring that electronic files are password protected. The College reviews its security measures periodically to ensure that all personal information is secure.

Employees of the College receive an orientation and ongoing training regarding the information safeguards required for personal information and their importance.

The College ensures that personal information that is no longer required to be retained is disposed of in a confidential and secure fashion (e.g. shredding).

Principle 8 - Openness

The College's personal information management policies and procedures are available to the public and its registrants via the College's website or can be requested by phone at 416-479-4330 or 1-844-712-1364, or by email at info@crpo.ca. Inquiries concerning the College's policies and practices for collecting, using and disclosing personal information may be directed to the Deputy Registrar via the phone numbers or email address above.

Principle 9 - Individual Access

Access

Where the College holds personal information about an individual, upon written request, the College shall allow access to the information to that individual, unless providing access could reasonably be expected to interfere with the administration or enforcement of the Legislation or it is impracticable or impossible for the College to retrieve the information.

Examples of situations where access may be denied include:

- Information contains references to another individual(s) that cannot be severed;
- Disclosure may result in significant risk of harm to the requestor or a third party;
- Information was collected or created in the course of an investigation, inquiry, assessment or similar procedure;
- Disclosure may defeat the purposes for which the information was collected;
- Information cannot be disclosed for legal, security or commercial proprietary reasons;
- Information is subject to solicitor-client or other privilege;
- Information was generated in the course of a dispute or resolution process;
- The request is frivolous, vexatious, made in bad faith or otherwise an abuse of process;

In cases where the personal information forms part of a record created by another organization, the College may refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may obtain access to the personal information from the organization rather than the College.

While the College's response will typically be provided at no cost or minimal cost to the individual, depending on the nature of the request and the amount of information involved, the College reserves the right to impose a cost recovery fee. In these circumstances, the College will inform the individual of the approximate cost to provide the response and proceed upon payment by the individual of the cost.

The College will make reasonable efforts to respond to the request within thirty days and to assist the individual in understanding the information.

Individuals should send their written request for access, with contact information and sufficient information about themselves to identify them the Attention of the Deputy Registrar, via info@crpo.ca.

In the event the College refuses to provide access to all of the personal information it holds, then the College will provide reasons for denying access. The individual may then choose to file a complaint with the Privacy Committee.

Challenging accuracy and completeness of personal information

An individual has the right to request a correction of what in their view, is erroneous information. Where the information forms part of a record created by another organization, then the College may refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may challenge the accuracy or completeness of the information.

Where an individual is able to successfully demonstrate that the personal information of a factual nature (not, for example, the expression of an opinion) is inaccurate or incomplete, the College will amend the information (i.e., correct, or add information). In addition, where appropriate, the College will notify any third parties to whom the College has disclosed the erroneous information. In some cases, a correction may be inappropriate (e.g., where the fact that a person made or recorded such a statement is the primary focus of the record rather than whether the statement is, in fact, accurate).

Where there is a dispute between the individual and the College as to the accuracy or completeness of the information, then the College will document the details of the disagreement, and, where appropriate, will advise any third party who received the contested information from the College, of the unresolved disagreement.

Principle 10 - Challenging compliance

Complaints or questions regarding the College's compliance with this Privacy Policy should be directed to the Deputy Registrar who can be reached at 416-479-4330, 1-844-712-1364 or info@crpo.ca.

If the Deputy Registrar cannot satisfactorily resolve a complaint, the College has a formal privacy complaints procedure which includes:

- acknowledging the complaint;
- review of the complaint by the College's Privacy Committee;
- providing a written decision and reasons to the complainant; and
- taking appropriate measures where the complaint is found to be justified.

Please note that there is a different process for handling complaints about the conduct or actions of a registrant of the College. Please contact complaints@crpo.ca if you wish to file a complaint about the conduct or actions of a registrant of the College.

SCHEDULE 1

SECTION 36 OF THE REGULATED HEALTH PROFESSIONS ACT, 1991, as amended (as of February 2021)

Confidentiality

36. (1) Every person employed, retained or appointed for the purposes of the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* and every member of a Council or committee of a College shall keep confidential all information that comes to his or her knowledge in the course of his or her duties and shall not communicate any information to any other person except,

(a) to the extent that the information is available to the public under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*;

(b) in connection with the administration of this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, including, without limiting the generality of this, in connection with anything relating to the registration of members, complaints about members, allegations of members' incapacity, incompetence or acts of professional misconduct or the governing of the profession;

(c) to a body that governs a profession inside or outside of Ontario;

(d) as may be required for the administration of the *Drug Interchangeability and Dispensing Fee Act*, the *Healing Arts Radiation Protection Act*, the *Health Insurance Act*, the *Health Protection and Promotion Act*, the *Independent Health Facilities Act*, the *Laboratory and Specimen Collection Centre Licensing Act*, the *Long-Term Care Homes Act, 2007*, the *Retirement Homes Act, 2010*, the *Ontario Drug Benefit Act*, the *Coroners Act*, the *Controlled Drugs and Substances Act (Canada)* and the *Food and Drugs Act (Canada)*;

(d.1) for a prescribed purpose, to a public hospital that employs or provides privileges to a member of a College, where the College is investigating a complaint about that member or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in regulations made under section 43;

(d.2) for a prescribed purpose, to a person other than a public hospital who belongs to a class provided for in regulations made under section 43, where a College is investigating a complaint about a member of the College or where the information was obtained by an investigator appointed pursuant to subsection 75 (1) or (2) of the Code, subject to the limitations, if any, provided for in the regulations;

- (e) to a police officer to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (f) to the counsel of the person who is required to keep the information confidential under this section;
- (g) to confirm whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information;
- (h) where disclosure of the information is required by an Act of the Legislature or an Act of Parliament;
- (i) if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons;
- (j) with the written consent of the person to whom the information relates; or
- (k) to the Minister in order to allow the Minister to determine,
 - (i) whether the College is fulfilling its duties and carrying out its objects under this Act, a health profession Act, the *Drug and Pharmacies Regulation Act* or the *Drug Interchangeability and Dispensing Fee Act*, or
 - (ii) whether the Minister should exercise any power of the Minister under this Act, or any Act mentioned in subclause (i). 2007, c. 10, Sched. M, s. 7 (1); 2014, c. 14, Sched. 2, s. 10; 2017, c. 11, Sched. 5, s. 2 (1, 2).

Reports required under Code

(1.1) Clauses (1) (c) and (d) do not apply with respect to reports required under section 85.1 or 85.2 of the Code. 1993, c. 37, s. 1. 1998, c. 18, Sched. G, s. 7 (2).

Definition

(1.2) In clause (1) (e),
“law enforcement proceeding” means a proceeding in a court or tribunal that could result in a penalty or sanction being imposed. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (2).

Limitation

(1.3) No person or member described in subsection (1) shall disclose, under clause (1) (e), any information with respect to a person other than a member. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (3).

No requirement

(1.4) Nothing in clause (1) (e) shall require a person described in subsection (1) to disclose information to a police officer unless the information is required to be

produced under a warrant. 1998, c. 18, Sched. G, s. 7 (2); 2007, c. 10, Sched. M, s. 7 (4).

Confirmation of investigation

(1.5) Information disclosed under clause (l) (g) shall be limited to the fact that an investigation is or is not underway and shall not include any other information. 2007, c. 10, Sched. M, s. 7 (5).

Restriction

(1.6) Information disclosed to the Minister under clause (1) (k) shall only be used or disclosed for the purpose for which it was provided to the Minister or for a consistent purpose. 2017, c. 11, Sched. 5, s. 2 (3).

Not compellable

(2) No person or member described in subsection (1) shall be compelled to give testimony in a civil proceeding with regard to matters that come to his or her knowledge in the course of his or her duties. 1991, c. 18, s. 36 (2).

Evidence in civil proceedings

(3) No record of a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act*, no report, document or thing prepared for or statement given at such a proceeding and no order or decision made in such a proceeding is admissible in a civil proceeding other than a proceeding under this Act, a health profession Act or the *Drug and Pharmacies Regulation Act* or a proceeding relating to an order under section 11.1 or 11.2 of the *Ontario Drug Benefit Act*. 1991, c. 18, s. 36 (3); 1996, c. 1, Sched. G, s. 27 (2).