



ICRC Orientation

Presented by:

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Manager, Professional Conduct

Purpose

1. Help committee members understand ICRC process and their role within it
2. Avoid inadvertent breaches of Code
3. Inform committee members of current ongoing ICRC projects
4. Appreciate why you are doing what you are doing

Summary

- 1. ICRC Processes**
- 2. Outcomes**
- 3. Your Role**
- 4. Reviewing Panel Packages**
- 5. Current Committee Work**

SECTION 1: ICRC Processes



Jurisdiction

- Subject matter jurisdiction
 - Alleged professional misconduct
 - Alleged incompetence
 - Alleged incapacity
- Person jurisdiction
 - Registrants and some former members
- Location jurisdiction
 - Universal

How Can Matters Come before ICRC


- Three ways:
 1. Formal complaint
 2. Registrar's Reports under section 75
 3. Incapacity inquiries under section 58

What is a Complaint?

- Medium (permanent medium)
- Identifies registrant
- Identifies concern
- Identifies complainant
- Intention of being a complaint (vs. simply bringing to College's attention)



Formal Complaints



Submit a Complaint

Under the *Regulated Health Professions Act, 1991* (RHPA) and the *Psychotherapy Act, 2007*, the College of Registered Psychotherapists of Ontario (CRPO) is mandated to accept and investigate complaints of professional misconduct, incompetence and incapacity regarding College members. To file a formal complaint with CRPO about a Registered Psychotherapist (RP), complete this form and mail, fax or email it to the College. Please provide as much information as you can. It is acceptable, however, to provide partial information at this stage of the complaints process.

If you would like to talk to someone at the College about the care you received from an RP, the RP's conduct, or the College's complaints process, please contact us at:

Tel: 416-479-4330, ext.109
1-844-712-1364 (General toll-free line)

Fax: 416-639-2168

Email: complaints@crpo.ca

Mail: Attn: Director, Professional Conduct
College of Registered Psychotherapists of Ontario
375 University Avenue, Suite 803
Toronto, ON M5G 2J5

We also recommend that you discuss your concerns directly with the RP, if you haven't already done so.

Please note that the College has no authority to direct the RP to provide any kind of monetary compensation, including refunds. The College's complaints process deals with the professional conduct, competency or capacity of Registered Psychotherapists.

The RP you are complaining about will be notified of your complaint within 14 days. A copy of your complaint will be provided to the RP and he or she will be asked to provide a response.

PERSON REGISTERING COMPLAINT

Name: _____

Street No. & Name: _____ Suite No.: _____

City: _____ Province: _____ Postal Code: _____ Country: _____

Primary Daytime Phone Number: _____

Alternate Daytime Phone Number: _____

Email Address* (Optional): _____

*Depending on the nature of the communication, the College may choose to contact you by email or by another method.

CRPO COMPLAINT FORM

CLIENT INFORMATION (IF DIFFERENT FROM THE PERSON REGISTERING THE COMPLAINT)

Name: _____

Street No. & Name: _____ Suite No.: _____

City: _____ Province: _____ Postal Code: _____ Country: _____

Primary Daytime Phone Number: _____

Alternate Daytime Phone Number: _____

If you are making a complaint on behalf of or regarding a client of an RP, the College will request consent from the client to release confidential information. If you are not the client or the person directly involved in the incident(s), please describe your relationship to that individual:

<input type="checkbox"/> Parent	<input type="checkbox"/> Healthcare Professional
<input type="checkbox"/> Spouse	<input type="checkbox"/> Lawyer
<input type="checkbox"/> Child	<input type="checkbox"/> Friend
<input type="checkbox"/> Relative	<input type="checkbox"/> Other: _____

Is the client aware that you are making this complaint?

☐ Yes

☐ No

If not, please explain why the client is not aware that you are making this complaint:

Formal Complaints

REGISTERED PSYCHOTHERAPIST ABOUT WHOM YOU ARE COMPLAINING

(PLEASE COMPLETE ALL KNOWN INFORMATION)

Name:
Business Name:
Street No. & Name: Suite No.:
City: Province: Postal Code: Country:
Telephone:
CRPO Registration No.: (if known)

COMPLAINT DETAILS

Date(s) of incident(s):

Location(s) of incident(s)

CRPO COMPLAINT FORM

Your concerns about the RP's care, behaviour, etc.:

Formal Complaints

CRPO COMPLAINT FORM

Description of any efforts you have already made to resolve this matter and the results of these efforts:

Names and contact information for witnesses or anyone else involved in this matter (please note that witnesses may be contacted by the College):

Please attach any documents you may have that support your complaint, and provide an explanation below of how each document relates to your concerns.

☐ I am providing supporting documents

CRPO COMPLAINT FORM

By entering my name below, I understand that I am filing a formal complaint against a Registered Psychotherapist.

Please note:

1. In many cases, the College will need to obtain the member's clinical record/notes about the client's care. If you have a concern about this, please contact the College before filing your complaint.
2. If you are a regulated health professional or employer filing a mandatory report, do not use this form. Rather, send the information in a fax, letter or email to the attention of the Registrar. (A mandatory report is information about a member's conduct that other regulated health professionals or employers are legally required to submit to the College.)

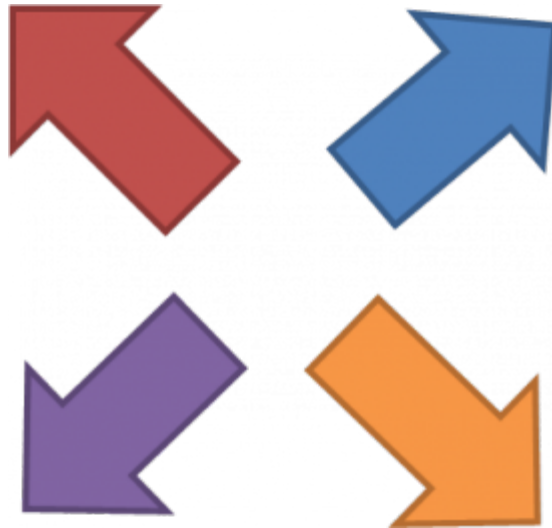
Type, Sign or Write Name:

Date:

Thank you for bringing your concerns to our attention.

Scope of Inquiry

- What are the four corners of the complaint?
- What to do if discover new information?



Complaint Timeline

- Registrant is notified within 14 days
- Investigation
- Request for Registrant's Response (30 days)
- Request for Complainant Reply (15 days)
- ICRC panel makes a decision
- Decision is drafted within approx. 6-8 weeks
- RHPA specifies that extension letters must be sent beyond 150 days



Complaint Withdrawal



Formal Complaint Withdrawal Request

I, _____ (Complainant's name), am requesting to withdraw my formal complaint about _____ (Member's name), RP.

1. I am making this request to withdraw this complaint voluntarily and of my own free will.
2. I understand that the College is not required to approve the withdrawal of this complaint and will notify me of its decision.
3. I understand that if the College accepts the withdrawal of my complaint:
 - a. the Inquiries, Complaints, and Reports Committee will take no action;
 - b. no decision will be issued; and
 - c. the College may not be able to take action if I complain about the same issue with the same member in the future.

I am requesting to withdraw my formal complaint because:

Complainant Signature

Date

- Bill 87: Protecting Patients Act – Registrar can withdraw a complaint at the request of the Complainant
- Complainant must submit a withdrawal form
- Member and Complainant are notified within 14 days of the Registrar's decision

Registrar's Report Process

1. Information received via:
 - a. Public
 - b. Mandatory Report
 - c. Quality Assurance Committee
2. ICRC considers if there are reasonable and probable grounds
3. If yes, Registrar appoints investigator and oversees
4. Report presented to ICRC, notice to registrant
5. Then ICRC can take action
6. Exceptions for emergencies

Power of Formal S. 75 Investigators

- Inspect and copy records
- Summon records from the member or third parties (e.g., insurance company)
- Search warrants
- Summon reluctant witnesses to give evidence under oath
 - Can you summons Registrant?

Prior History

26. (2) A panel of the ICRC shall, when investigating a complaint or considering a report currently before it, consider all of its available prior decisions involving the member, including ... all available prior decisions involving the member of the Discipline Committee, the Fitness to Practise Committee..., unless the decision was to take no further action under subsection (5).

Urgent Cases



- Where likelihood of client harm / injury
- Registrar can appoint investigator without prior ICRC approval
- Can reduce response time for registrant ICRC can issue interim orders (TCL or suspend)
 - Can issue order first and get submissions later

Interim Orders

- Suspend or impose TCL until final disposition
- Prior to bill 87: Only after referral to discipline
- Bill 87: Any time from receipt of complaint or appointment of investigator
- When ICRC is of opinion conduct exposes or likely to expose registrant's clients to harm or injury
- Need some evidence more than speculation, don't need certainty
- Notice, submissions, reasons
- Least restrictive measure possible
- Must proceed expeditiously and give priority

Referral to Incapacity

- Referral to another panel of ICRC called the Health Inquiries Panel (HIP)
- Registrant notified and requested to provide response
- Power to direct specialist assessment
- Report disclosed to registrant / submissions
- If necessary, HIP can refer the matter to the Fitness to Practice Committee



SECTION 2:

Outcomes

Disposition Option

	Outcome	Risk
1.	Take no action	None/minimal
2.	Issue written advice	Low
3.	Remedial agreement	Low
4.	SCERP	Medium
5.	In-person caution	Medium
6.	Undertakings	Medium-high
7.	Referral to Discipline Committee	High
8.	Incapacity inquiries	n/a

Test for Referral to Discipline

- In order for referral to discipline, there are two questions:
 1. Do the allegations warrant a referral to discipline? (seriousness test); and
 2. Could the evidence meet the onus of proof? (sufficiency of evidence test)
- Both questions must be answered “yes” for a referral

1. Warranting a Referral

- Does conduct potentially constitute misconduct or incompetence?
- Is conduct an isolated event or a pattern?
- Evidence of improper motivation of registrant?
- Prior decisions?
- Response of registrant to the complaint?
- Would another option be more effective?

2. Sufficiency of Evidence

- Is there a reasonable possibility that the onus of proof would be met?
 - Onus of proof: balance of probabilities (McDougall)
 - Look for clear, cogent and convincing evidence
 - Consider all of the evidence, including defence
 - Distinguish information from evidence
 - Consistent with an innocent explanation?
- Do not make findings of credibility

2. Sufficiency of Evidence

- Examples of cases that ought not to be referred
 - Person not in a position to observe
 - Misinterpretation cases
 - Seriously inconsistent statements (by complainant or key witness)
 - Extreme implausibility
- Prosecutorial viability opinion

Expert Opinions

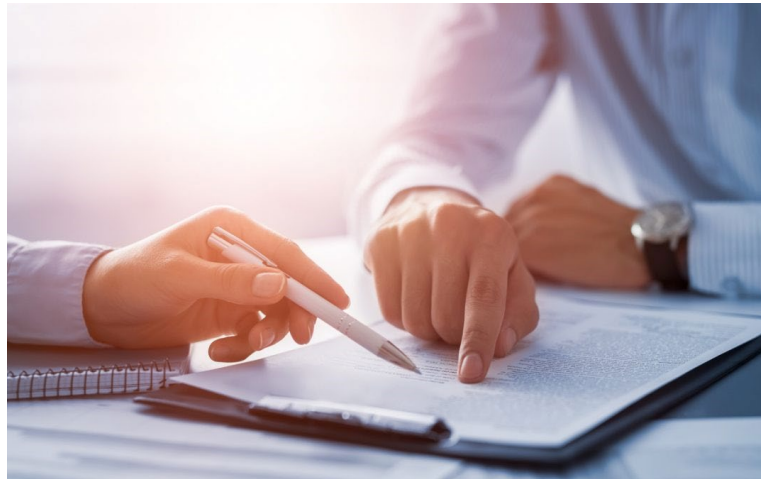
- When is an expert opinion required?
 - Evidence needed for a referral to Discipline
 - Committee is unfamiliar to subject matter
- Can committee members serve as experts?

Disposition Option

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Remedial Agreement: **Low Risk**

- Reflection paper
- Assigned reading
- Registrant must agree*



In-Person Caution:

Medium Risk

- Educational in nature
 - Language should not be disciplinary
 - Usually to prevent concerns from progressing
- Need reasons to explain why no discipline
- Usually scheduled after appeal period ends
- Does not have to be before same panel
- Attendance mandatory
 - Scheduling issues

Caution in Person – Content

- Identification of the issues raised by concern
- Discussion of significance of concerns
- How registrant can better approach situation
- Suggestions how could avoid in the future
- Statement of confidence registrant will learn
 - Or warning that repetition may result in the registrant facing more formal action

Specified Continuing Education or Remediation Plan (SCERP): Medium Risk

- No finding needed
- To prevent concerns from becoming problems
- Must relate to concerns raised in complaint
- Consent of registrant not required
- Are appealable
 - No need to complete them during appeal

SCERP

Need to be specified

- What, by when, through whom?
- Must be available
- Limits to evaluating successful completion
- Who pays?



Undertakings:

Medium-High Risk

- Places restrictions or terms, conditions and limitations on a Registrant's practice
- Negotiated before decision written
- Registrant must agree to it
- May permit same result as discipline
- Precision and enforceability of terms
- Use for serious cases
- Reasons will reflect fact of undertaking

Discipline: **High Risk**



- Serious concerns
- Sufficient evidence to support legal opinion
- Public hearing

Frivolous and Vexatious

- For complaints only
- Meaning of frivolous, vexatious, made in bad faith, moot, or otherwise an abuse of process
- Procedure (notice, decision, reasons)
- Reviewable by HPARB
- Is it worth it?
- Implications for “prior decisions”

Other Actions

- Cannot refer to QA
- Cannot be disciplinary
- Cannot involve findings of disputed facts
- Cannot involve findings of misconduct
- No continuing Committee involvement after decision
- ICRC cannot order the Registrant to issue a refund

Decisions



**PURPOSE OF
GIVING REASONS?**

Being fair to the parties

Improving the quality of your decision making

Defending challenges to the decision

Public Confidence

Decisions

*“...it is now appropriate to recognize....the duty of **procedural fairness** will require the provision of a written explanation for a decision....”*

*Baker v Canada,
[1999] 2 SCR 817,
para. 43*



REQUIREMENTS TO GIVE SUFFICIENT REASONS

*“The provision of reasons by public decision-makers helps to build **public confidence**....”*

*Clifford v Ontario
Municipal Employees
Retirement System,
2009 ONCA 670, para.
17*

Reasons for Decision

- Must address all issues:
 - e.g., why investigation step not taken
 - e.g., issue raised in complaint
 - e.g., issue arising during investigation





SECTION 3:

Your Role

The Role of ICRC

- Make decisions in the interest of the public
- Maintain a fair and unbiased process
 - Was the investigation adequate?
 - Was the decision reasonable?
- ICRC:
 - Is a screening committee
 - Does NOT make findings of professional misconduct

Your Role

DO	DON'T
<ul style="list-style-type: none">• Come prepared for meetings/ test technology in advance	<ul style="list-style-type: none">• Investigate on your own
<ul style="list-style-type: none">• Review reference materials on Aprio and website	<ul style="list-style-type: none">• Interrupt your peers
<ul style="list-style-type: none">• Declare any conflict or <u>perceived</u> conflict of interest to staff	<ul style="list-style-type: none">• Discuss cases on breaks
<ul style="list-style-type: none">• Ask questions through the Chair	<ul style="list-style-type: none">• Discuss the nature of any conflict of interest in meetings
<ul style="list-style-type: none">• Keep all ICRC materials confidential and secure	<ul style="list-style-type: none">• Discuss cases with friends, family, colleagues or other ICRC members from other panel

SECTION 4:

Reviewing Panel Packages

Questions on First Review

- Read the package in order it appears
- Any conflict of interest / appearance of bias?
- What are the allegations?
- Who is who?



Questions on Second Review



- Important documents missing?
- Have important witnesses been overlooked?
- Seriousness test
- Risk assessment

Examples

Examples³

Low Risk	Medium Risk
<ul style="list-style-type: none"> - Billing/Fees⁴ - Record-keeping - Use of title - Professionalism/communication - Clinical supervision - Advertising - Discontinuing services 	<ul style="list-style-type: none"> - Assessments (including custody/access)/ issuing accurate documents - Informed consent - Conflict of interest - Competence - Confidentiality - Non-sexual boundary crossing - Dual or multiple relationships

High Risk
<ul style="list-style-type: none"> - Sexual abuse - Fraud - Undue influence, abuse

¹ **Note:** Examples are tentative. Overall risk may change based on the individual circumstances of a given case.

¹ Excepting fraud, exploitation or abuse.