



College of
Medical Radiation
Technologists of
Ontario

Ordre des
technologues en
radiation médicale
de l'Ontario

CMRTO Internal Review of Regulatory Processes

Conducted by Tina Langlois, B.A., LL.B., MEd
Barrister, Solicitor, Notary

Approved by Council March 27, 2015

CMRTO has been conducting an internal review of the CMRTO's regulatory processes, using criteria from two other recent reviews of health regulatory colleges: the PriceWaterHouse Coopers (PWC) review of the College of Denturists of Ontario (CDO), and the voluntary review of the Royal College of Dental Surgeons of Ontario (RCDSO) completed by the independent regulatory expert, Sir Harry Cayton. The findings of this internal review were presented to the CMRTO Council at its meeting in March 2015 and were also approved by Council at the same meeting.

1.0 PriceWaterhouse Coopers Review

In March 2012, PWC reported to the Ministry of Health and Long-Term Care on its Operational Review of the College of Denturists of Ontario. The review was conducted at the request of the Minister of Health and Long-Term Care and resulted in the appointment of a supervisor.

The scope of PWC's review was to assess adequacy of administration and governance processes, procedures, controls, and/or practices, including but not limited to:

- Registration process and whether applicants are treated in a transparent, objective, impartial and fair (TOIF) manner
- Examination process and whether it is administered in a fair, impartial and consistent manner
- Quality assurance process and whether it results in fair, impartial and consistent decisions
- Complaints process and whether it results in fair, impartial and consistent decisions
- Discipline process and whether it results in fair, impartial and consistent decisions
- By-laws and policies, especially those related to conflict of interest, violations, and the effect, if any, on the CDO's ability to regulate the profession in the public interest
- Stakeholder consultations and role of stakeholder feedback in CDO's development of its by-laws and regulations
- Enforcement of the Denturism Act, 1991 and its regulations regarding unauthorized practice of the profession by individuals
- Confidentiality and records retention

PWC reported its findings and concerns in the following categories:

- Qualifying Examinations

- Qualifying Examination Inquiries and Appeals
- Registration
- Complaints Discipline and Investigations
- Quality Assurance
- Stakeholder consultation & feedback

For each category, the concerns identified in the PWC report are set out below as well as a description of the CMRTO's processes or practices in the area.

Qualifying Examinations

PWC identified the following concerns with CDO's processes:

- Lack of formal criteria for examiner selection
- Lack of documentation supporting the development of examination content
- Lack of information provided in candidate protocols
- Lack of rigour relating to the administration of the practical and written examinations including the retention of practical examination materials
- Lack of information provided to failed candidates
- Lack of analysis of candidate examination results

The CMRTO does not administer its own qualifying examinations and has approved the use of the Canadian Association of Medical Radiation Technologists (CAMRT) certifying examinations. CMRTO has a contractual agreement with the CAMRT for the provision of the examination which includes provisions to ensure the proper administration of the examination and the appeal and re-write process. The CAMRT examinations are competency based examinations which are developed through a rigorous process that includes separate, expert committees to develop questions, validate questions and review the examination results. The CMRTO also provides input on the CAMRT competency profiles which are the basis for the examination. The Office of the Fairness Commissioner (OFC) monitors registration processes to ensure they are transparent, objective, fair and impartial.

Qualifying Examination Inquiries and Appeals

PWC identified the following concerns with CDO's processes:

- Reduction in transparency and fairness as a result of changes to the examination inquiries and appeals policies
- Lack of adequate documentation retained regarding the inquiries process
- Delayed communication with candidates regarding receipt of appeals requests
- Lack of documentation supporting Executive Committee appeals decisions
- Inadequate practices relating to conflicts of interest
- Inadequate documentation relating to the Appeals Panel decisions

The CMRTO does not administer its own qualifying examinations and therefore does not handle inquiries or appeals from the examination process. The CAMRT has an established appeals process which is published on their website.

Registration

PWC identified the following concerns with CDO's processes:

- Lack of tracking of applicant registration requests
- Changes to the process to request 3rd attempts at the examinations and/or deferrals may result in potential administrative burden and hardship for candidates
- Lack of written reasons and supporting documentation for Registration Committee decisions
- Lack of or unclear notice of referral to the Registration Committee
- Lack of review of scope of practice (review of educational and occupational standards for entry to practice)

The CMRTO tracks applications for registration through its database and SharePoint to ensure efficient and effective file management. All decisions issued by Panels of the CMRTO Registration Committee include full and detailed reasons. The letter sent to applicants whose files are referred to the Registration Committee outlines the reason for the referral, provides the applicants with relevant excerpts from the statute and informs applicants of their right to provide submissions.

The CMRTO reviewed the educational and occupational standards for entry to practice in conjunction with the modernization of the scope of practice for MRTs in 2011.

Complaints, Discipline & Investigations

PWC identified the following concerns with CDO's processes:

- Lack of expected date of disposition date in the 150 day notices
- Delays in complaints decisions
- No record of consideration of prior history of complaints
- Inconsistent use of investigators in complaints
- Lack of documentation relating to consent to release information
- Consent forms for ADR not obtained from complainant and member
- Delay in disciplinary hearings (six to ten months to send the ICR Committee decision and ten months to one year delay to the hearing)
- ADR initiated subsequent to referral of a complaint
- Discipline
- Lack of disciplinary committee meeting minutes
- No formal ICR Committee approval for an investigation
- ICR Committee decisions regarding investigations are not made in a timely fashion
- Grounds for investigations initiated by the Registrar are not fully documented
- Use of investigators who are former instructors of the member being investigated

The CMRTO's professional conduct processes are set out in checklists that relate directly to the statutory obligations. Database integration and template letters help ensure that all timelines are tracked and statutory requirements are met. Case timelines are monitored by the Inquires, Complaints and Reports (ICR) Committee at each meeting. In addition, professional conduct regulatory requirements are tracked by Council on the CMRTO's Balanced Score Card, as are timelines for complaints.

The CMRTO includes the expected dates of disposition in its 150 day notices; in fact they are automatically populated into the template by the database based on the date the complaint was filed. Panels of the ICR Committee are provided with full copies of all prior decisions. Consent is sought in every case where access to personal health information is required. All investigation requests from the Registrar must have the approval of the ICR Committee and the grounds for the request are documented in the Registrar's report to the ICR Committee. Complaints decisions are sent to the complainant and member the day they are approved by the ICR Committee. The CMRTO uses an external investigation firm to ensure objectivity and consistency in its investigations. Finally, the CMRTO does not use alternative dispute resolution (ADR).

Quality Assurance (QA)

PWC identified the following concerns with CDO's processes:

- Lack of documentation relating to the selection process for members subject to an assessment
- No formal evaluation criteria for selection of assessors
- Lack of documentation with respect to the tracking and review of assessment (relating to the QA Committee's rationale to accept assessment results and recommendations of remedial work)
- Incomplete assessment files which do not support the activities of the QA Committee

The CMRTO Council establishes the percentage of members who are randomly selected to participate in the quality assurance program each year and the selection is conducted in accordance with the regulation and approved policy. The QA Committee and assessors appointed by the QA Committee assess the members' quality assurance portfolios against criteria set by the QA Committee. The QA Committee completed a review of its processes and policies to ensure alignment with the new regulation and consistency and fairness of the evaluation, documentation and process over 2012 and 2013.

Stakeholder Consultation and Feedback

PWC identified the following concerns with CDO's processes:

- Method of circulation of the proposed changes in the bylaws conducted in a less than transparent manner
- Communication of the nature of the bylaw revisions did not include black line changes or rationale

The CMRTO circulates proposed bylaws amendments by mail directly to members and stakeholders and also posts them on the website with an invitation to provide input. Proposed bylaw amendments that are circulated always include a blackline change version and the rationale for the proposed changes.

Analysis and Conclusion

The CMRTO's administration and governance processes, procedures, controls, and practices do not suffer from any of the concerns identified in the PWC review. The CMRTO is compliant with its regulatory requirements and demonstrates good governance and high quality program and process management.

2.0 RCDSO Voluntary Review

In 2012, the RCDSO asked independent regulatory expert, Sir Harry Cayton to conduct a review of its processes. The review was conducted using the *Standards of Good Regulation June 2010* (Professional Standards Authority – UK).

These include standards related to the following:

- Guidance and Standards
- Education and Training
- Registration
- Fitness to Practice

Each of the standards include a number of criteria which are set out below in italics, along with a description of the CMRTO processes, policies or programs in place related to the criteria and standard. Any recommendations have been set out and identified.

Guidance and Standards

1. *Standards of competence and conduct reflect up-to-date practice and legislation. They prioritise patient and service user safety and patient and service user centred care.*

The CMRTO Standards of Practice are reviewed regularly and revised to reflect current practice. The most recent revisions came into effect in 2011 to reflect changes in the scope of practice for MRTs. The draft Standards of Practice were circulated to all CMRTO members for comment to ensure they reflected current practice before being approved by the CMRTO Council. The standards are patient focused and aimed at ensuring safe ethical practice. The standards cover the following topics:

- Legislation, standards & ethics
- Equipment & materials
- Diagnostic and therapeutic procedures
- Safe practice
- Relationship with patients
- Professional relationships
- Records and reporting
- Continuing competence

2. *Additional guidance helps registrants apply the regulators' standards of competence and conduct to specialist or specific issues including addressing diverse needs arising from patient and service user centered care.*

Each standard of practice has a series of indicators associated with it, including indicators that are specific to each specialty where appropriate. (The CMRTO regulates MRTs in four specialties: radiography, nuclear medicine, radiation therapy and magnetic resonance.)

In addition CMRTO publishes “What you must know about...” documents that provide members with additional information and guidance regarding the legislation and their practice. The CMRTO's

jurisprudence program (Legislation Learning Package) is available at no charge on the website. Professional practice articles published in the CMRTO's newsletter are based on emerging issues and trends and are aimed at ensuring members are aware of and able to manage emerging patient care issues.

- 3. In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in the four UK countries, European and international regulation and learning from other areas of the regulators' work.*

In developing and revising standards, the CMRTO consults widely with members, employers, educators, regulators in other jurisdictions and other stakeholders.

In addition, the CMRTO reviews and comments on the national competency profiles that underlie the CAMRT's certification examinations. The CMRTO is a founding member and participates in the Alliance of Medical Radiation Technology Regulators of Canada (AMRTRC).

The Registrar attends national and international conferences and symposiums to ensure that the CMRTO is aware of national and global developments in the profession and in professional regulation.

- 4. The standards and guidance are published in accessible formats. Registrants, potential registrants, employers, patients, service users and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed.*

The CMRTO's Standards of Practice, Code of Ethics, and "What you must know about..." documents are all posted on the CMRTO website and are accessible by anyone. The same documents have been published in hard copy and sent to all MRTs.

There is information on the website which outlines the CMRTO's complaints and discipline processes as well as information regarding how to file a complaint regarding the conduct of an MRT. There is a link to the Independent Health Facilities program website for people whose complaints are about clinics as well as a link to the Privacy Commissioner's website for those whose complaints relate to the collection, use or disclosure of their personal health information.

Education and Training

- 1. Standards for education and training are linked to standards for registrants. They prioritise patient and service user safety and patient and service user centred care. The process for reviewing or developing standards for education and training should incorporate the views and experiences of key stakeholders, external events and the learning from the quality assurance process.*

Educational programs for MRTs in Ontario are approved by the CMRTO Council and are accredited by the Conjoint Accreditation process of the Canadian Medical Association (CMA). The competency profile for the programs is set by the national association and the CMRTO has input regarding the regulatory information and the standards of practice that must be included in an accredited program. Programs are accredited on a regular basis and CMRTO is a part of the accreditation team.

- 2. Through the regulator's continuing professional development/revalidation systems, registrants maintain the standards required to stay fit to practise.*

The CMRTO's quality assurance program requires all members to maintain a professional portfolio and participate in a minimum of 25 hours of continuing education or professional development activities each year. Each year a number of members are selected at random to submit their professional portfolio to be reviewed and assessed.

The quality assurance program also has a peer and practice review component and each year a number of members are selected at random to complete the peer and practice reviews.

CMA's accreditation program is recognized across the country and throughout the world for its rigour. The process includes a review of curriculum, teaching and evaluation methods as well as the clinical practice portion of the programs.

- 3. Action is taken if the quality assurance process identifies concerns about education and training establishments.*

Educational programs for medical radiation technologists are accredited by the CMA. The CMRTO participates in the accreditation process and accreditation is based on the competency profiles developed by the CAMRT. The accreditation status of educational programs is public and may be revoked or rescinded if the program no longer meets the requirements for accreditation.

- 4. Information on approved programmes and the approval process is publicly available.*

The information about the approved programs and links to each are provided on the CMRTO website.

Recommendation 1

The CMRTO may wish to consider including a link to the CMA's accreditation process on its website.

Registration

- 1. Only those who meet the regulator's requirements are registered.*

All applicants for registration with the CMRTO must meet the registration requirements set out in regulation. Any applicant who does not meet one of the requirements is referred by the Registrar to the Registration Committee for review and decision. The requirement to have completed an approved program or one that is assessed to be substantially equivalent, the requirement to have successfully passed the national certification examination and the requirement to have competently practised or completed a training program within the preceding five years are all non-exemptible requirements.

- 2. The registration process, including the management of appeals, is fair, based on the regulators' standards, efficient, transparent, secure, and continuously improving.*

The CMRTO registration process is dictated by statute, regulation and bylaw provisions which are accessible from the CMRTO's website. The appeal is to an independent body, the Health Professions

Appeal and Review Board (HPARB) who have the authority to direct the Registrar to register an individual.

The registration process is also subject to the jurisdiction of the Ontario Fairness Commissioner, whose mandate is to ensure that regulators have registration practices and processes that are transparent, objective, impartial and fair.

3. *Through the regulators' registers, everyone can easily access information about registrants, except in relation to their health, including whether there are restrictions on their practice.*

The CMRTO has a public register accessible from the website that contains information on all members and former members for five years. Any restrictions placed on a member's certificate of registration including suspension, revocations and terms, conditions and limitations are noted on the public register. The register also notes if a member has undertaken to never practise again in Ontario. The CMRTO's public register is updated in real time.

4. *Employers are aware of the importance of checking a health professional's and social worker's registration. Patients, service users and members of the public can find and check a health professional's and social worker's registration.*

Anyone can check the public register information regarding members. Efforts have been made to stress with employers the importance of checking the register when hiring MRTs, however there are still times when we find MRTs practising without being registered, generally when they return from a maternity or parental leave. This could be completely eliminated if employers understood the importance of checking the register prior to allowing an individual to return to work after a leave.

Recommendation 2

The CMRTO may wish to consider how to enhance the information provided to employers on how to use the public register of MRTs.

5. *Risk of harm to the public and of damage to public confidence in the profession related to non-registrants using a protected title or undertaking a protected act is managed in a proportionate and risk based manner.*

Action is taken immediately when the CMRTO becomes aware of someone practising without being registered. Anyone who is otherwise qualified is registered and their unregistered practise dealt with through the professional conduct process. The CMRTO has obtained injunctions under the Provincial Offences Act against unqualified individuals practising without being registered.

Recommendation 3

The CMRTO should continue to work with the Independent Health Facilities (IHF) Program and the College of Physicians and Surgeons of Ontario to facilitate the sharing of information regarding illegal practice.

Fitness to Practice

1. *Anybody can raise a concern, including the regulator, about the fitness to practise of a registrant.*

The complaints process is open to everyone. Mandatory reporting by employers, facilities and members themselves brings conduct concerns, be they competence or capacity related, to the attention of the CMRTO. There is a process for the Registrar to raise concerns about a member's fitness to practise or competence and to request approval for the appointment of an investigator if she has reasonable grounds to believe that a member may have committed an act of professional misconduct, be incompetent or incapacitated.

2. *Information about fitness to practise concerns is shared by the regulator with employers/local arbitrators, system and other professional regulators within the relevant legal frameworks.*

Although most employers are aware when a complaint is made because the CMRTO needs them to verify the identity of the MRT(s) involved and often request documents and records, the CMRTO cannot inform employers of the outcome of complaints or mandatory reports as the *Regulated Health Professions Act (RHPA)* does not permit such disclosure.

Professional conduct information is available on the public register only when the ICR Committee has referred a member to discipline. Discipline outcomes are posted on the public register and published in the CMRTO newsletter and annual report. However, there is no one place on the CMRTO website to see all the discipline decisions listed - a person would have to know the member's name in order to see the discipline outcome.

Recommendation 4

CMRTO should consider how and where it publishes and posts public information, such as discipline decisions, to ensure it is accessible and useful to the public.

Recommendation 5

CMRTO should consider what additional information about members might be included on the public register as part of its current transparency review.

3. *Where necessary, the regulator will determine if there is a case to answer and if so, whether the registrant's fitness to practise is impaired or, where appropriate, direct the person to another relevant organization.*

The ICR Committee investigates complaints and considers reports regarding member conduct and determines the appropriate resolution which can include referring specified allegations of a member's professional misconduct, incapacity or incompetence for a hearing before a tribunal.

4. *All fitness to practise complaints are reviewed on receipt and serious cases are prioritized and where appropriate referred to an interim orders panel.*

The RHPA contains timing provisions related to the disposition of complaints. The ICR Committee has the authority, once it has referred a member to hearing, to impose an interim order if they believe there is a risk of harm to patients. Staff routinely refer people to other colleges or the IHF Program where complaints concern other health professionals, the policies of a clinic or the practice of ultrasound, as diagnostic medical sonographers are not regulated in Ontario.

5. *The fitness to practise process is transparent, fair, proportionate and focused on public protection.*

The CMRTO has a statutory duty to protect the public. All the professional conduct processes are set out in statute and are designed to ensure both patient protection and member's rights are preserved. The professional conduct processes are subject to appeal to an external appeal bodies (HPARB and the courts).

6. *Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders.*

Staff monitor and report on the number of days cases take from receipt to resolution. The ICR Committee has the authority, once it has referred a member to discipline, to impose an interim order if they believe there is a risk of harm to patients.

7. *All parties to a fitness to practise case are kept updated on the progress of their case and supported to participate effectively in the process.*

The CMRTO maintains contact with members and complainants throughout the process and decisions and reasons are issued to the parties at the conclusion of the process.

8. *All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession.*

ICR Committee decisions are reached using a decision making tool that ensures a consistent, objective and fair process.

9. *All final fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders.*

Summaries of discipline decisions are published in the CMRTO's newsletter as well as in the annual report. The outcome of discipline decisions are posted to the public register by member name.

Recommendation 4

CMRTO should consider how and where it publishes and posts public information, such as discipline decisions, to ensure it is accessible and useful to the public.

10. *Information about fitness to practise cases is securely retained.*

CMRTO retains paper and electronic copies of all professional conduct decisions in a secure manner.

Analysis and Conclusion

The CMRTO demonstrates all of the standards of good regulation as benchmarked against the international standards set out above. The recommendations set out in the report are merely suggestions to improve performance in the standard noted, and are not suggestive of any regulatory shortcoming by CMRTO.