



## What you must know about ... Professional Conduct processes

The College of Medical Radiation and Imaging Technologists of Ontario (CMRITO) is the regulator of medical radiation and imaging technologists (MRITs) in the province of Ontario.

As regulated health professionals, CMRITO registrants are accountable to their patients and the public to provide safe, effective, and ethical medical radiation and imaging technology services.

An important part of CMRITO's responsibility to regulate the profession of medical radiation and imaging technology and govern MRITs is investigating complaints, considering reports, and making inquiries into a registrant's fitness to practise. This is accomplished through the professional conduct processes provided for in the *Regulated Health Professions Act, 1991* (RHPA).

The following information is meant to help registrants understand CMRITO's professional conduct processes and provide answers to frequently asked questions regarding:

- the review of reports by the Registrar regarding professional misconduct, incompetence, incapacity, or sexual abuse
- the investigation of complaints and the consideration of Investigation Reports by the Inquiries, Complaints and Reports (ICR) Committee
- hearings before the Discipline Committee and the Fitness to Practise Committee

In this publication, the word “registrants” refers to registrants of CMRITO in all five specialties: radiography, radiation therapy, nuclear medicine, magnetic resonance, and diagnostic medical sonography. The word “profession” refers to the profession of medical radiation and imaging technology.

The information provided in this publication is not an appropriate substitute for advice from a qualified legal professional. If a registrant wishes to obtain legal advice regarding a professional conduct matter, they may have access to legal assistance through their professional liability insurance (PLI) provider. For more information on PLI, please refer to [What you must know about ... professional liability insurance](#).

### ***What is professional misconduct?***

Professional misconduct occurs when a registrant fails to do something required by the practice of the profession (omission) or does something that violates legislation or the Standards of Practice (violation).

The key documents for determining what is professional misconduct are the legislation that governs the practice of the profession, including the [professional misconduct regulation](#), and the CMRITO [Standards of Practice](#).

The CMRITO Standards of Practice, which describe what each registrant is accountable and responsible for in practice, are intended to be generic. The indicators that follow each practice standard outline the application of the practice standard in a specific dimension of practice. Most indicators refer to tasks that are common to all registrants. The methods for implementing these tasks may be determined by departmental policies and procedures. For this reason, failure to comply with facility policy or procedure may result in a failure to maintain the Standards of Practice of the profession. Failing to maintain the Standards of Practice of the profession is professional misconduct.

### ***What is incompetence?***

A registrant is incompetent if their professional care of a patient displays a lack of knowledge, skill or judgement of a nature or to an extent that demonstrates that they are unfit to continue to practise or that their practice should be restricted.

### ***What is incapacity?***

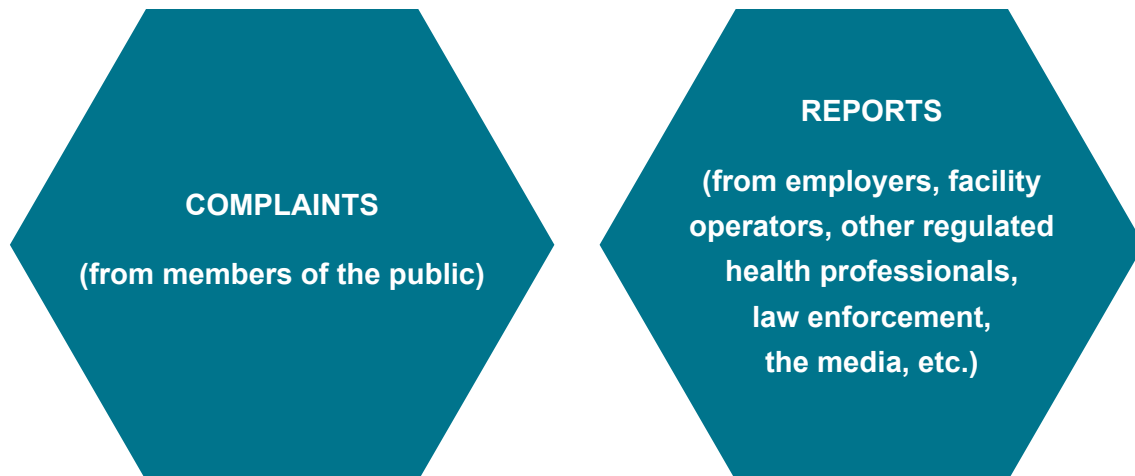
A registrant is incapacitated if they are suffering from a physical or mental condition or disorder that makes it desirable in the public interest that their certificate of registration be subject to terms, conditions or limitations, or that they no longer be permitted to practise.

### ***What is sexual abuse?***

Sexual abuse of a patient by a registrant is defined by legislation and includes sexual intercourse or other forms of sexual relations, touching of a sexual nature, and behaviour or remarks of a sexual nature. For more detailed information, please refer to [What you must know about ... preventing sexual abuse](#).

### ***How does information about a registrant's conduct, competence, or capacity come to CMRITO's attention?***

This information comes to CMRITO's attention in one of two ways:



## COMPLAINTS

CMRITO is responsible for investigating all complaints received regarding the conduct of registrants. Complaints must be received by CMRITO in writing and must name the complainant. Complaints cannot be made anonymously.

### ***Will I know if a complaint is made against me?***

Yes. When a complaint is made, CMRITO must advise the registrant within 14 days and provide them with the opportunity to respond. If a registrant does not respond to the complaint within 30 days, the ICR Committee can request that an investigator be appointed to contact the registrant, confirm their contact information, and elicit their response to the complaint.

### ***I've already had a complaint filed against me, and now I have another. Is this relevant?***

When a registrant is advised of a complaint and provided with the opportunity to respond, they must also be provided with copies of any prior decisions of panels of the ICR Committee regarding their conduct. The ICR Committee is required to consider any prior decisions as part of its process. A prior decision may be considered an aggravating factor in the ICR Committee's risk analysis (more information on this is included below under *What can a panel do?*).

### ***Who investigates complaints?***

Panels of the ICR Committee direct the investigation of complaints, not College staff.

As part of its investigation, the ICR Committee may direct staff to obtain documentation from the facility where the alleged incident occurred, clarifying information from the registrant and/or complainant, and/or statements from witnesses.

If needed, a panel of the ICR Committee can also request that an investigator be appointed to investigate the matter.

***What can a panel do? How does the panel decide on the appropriate outcome?***

First, the ICR Committee considers whether to refer allegations of professional misconduct to the Discipline Committee or whether some other action is appropriate.

In deciding on the appropriate outcome, the ICR Committee completes a risk assessment.

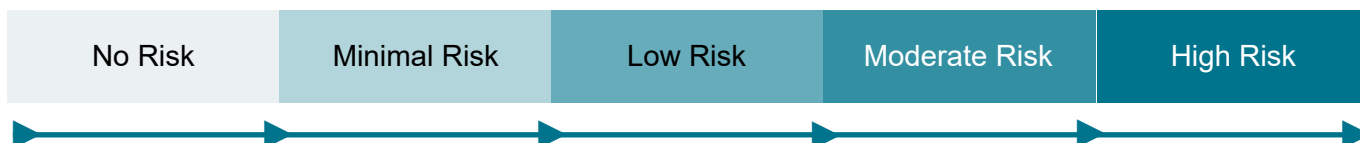
In completing its risk assessment, the ICR Committee considers whether there are any aggravating or mitigating factors present in the record of investigation, including:

| Aggravating Factors   | Mitigating Factors   |
|---|--|
| Prior history (prior decisions issued regarding the registrant) | No prior history (no prior decisions regarding the registrant) |
| Deception/dishonesty  | No intent to deceive   |
| No willingness to address the issue                             | Willingness to address the issue                               |
| No remorse  | Remorse  |
| Lack of rehabilitation potential                                | Remediation in progress  |
| Years of experience   | Years of experience  |
| Intent  | No intent  |
| Concealment   | No concealment   |
| Lack of cooperation   | Cooperation  |
| No admission  | Voluntary admission  |
| Pattern of conduct  | Isolated event   |
| Character/reputation  | Character/reputation   |



After considering the aggravating and mitigating factors (if any), the ICR Committee considers whether the allegations raise a “risk of harm” and, if so, the level of risk involved. The various risk levels, and their corresponding outcomes, are set out in the table below.

The moderate and high risk outcomes are designated as “public” by the RHPA and are required by law to be posted to a registrant’s public register profile where they remain indefinitely.



| Risk of Harm | Definition  | Outcome                                   | Public |
|--------------|---|---|--------|
| None         | If there is no risk harm, the registrant's actions were appropriate.  | No action                                 | No     |
| Minimal      | If there is a minimal risk of harm, the registrant's actions were appropriate and/or facts cannot be verified and disputed facts cannot be resolved.  | No action                                 | No     |
| Low          | If there is a low risk of harm, there is no conduct that is serious in nature, there is no indication of a pattern of conduct, and the conduct at issue is unlikely to have a direct impact on patient care, safety, or the public interest. However, there is an opportunity for the registrant to improve their practice. | Advice, recommendations, and/or reminders | No     |
| Low          | If there is a low risk of harm, there is no indication of a pattern of conduct and the conduct at issue is unlikely to have a direct impact on patient care, safety, or the public interest. The registrant demonstrates insight and reflection and agrees to improve their practice.                                       | Remedial Agreement                        | No     |

|          |   |  |     |
|----------|---|--|-----|
| Moderate | If there is a moderate risk of harm, there is a significant concern about the registrant's conduct or care of the patient. The registrant needs to upgrade their skills or change their practice. If the concern is remedial, it is best addressed through education. Given the risk of harm to patient care, safety, or the public interest, timely improvement is required.   | Specified Continuing Education and Remediation Program (SCERP) | Yes |
| Moderate | If there is a moderate risk of harm, there is a single egregious episode or a pattern of conduct that can have a direct impact on patient care, safety, or the public interest. The registrant is capable of improvement, and the conduct is best addressed through advice. Although timely improvement is needed, there is no need to act to remove or restrict a registrant's right to practice the professional of medical radiation technology. | Oral Caution   | Yes |
| Moderate | If there is a moderate risk of harm, the conduct reflects a significant concern about a registrant's conduct or care that can have a direct impact on patient care, safety, or the public interest. The registrant is required to upgrade their skills to address the concern.  | Acknowledgement & Undertaking                                  | Yes |

|      |   |                        |     |
|------|---|------------------------|-----|
| High | If there is a high risk of harm, the conduct reflects a serious concern regarding significant issues in the registrant's misconduct, including sexual abuse or incompetence. The concern(s) raised by the conduct warrant(s) referral and the evidence is sufficient to support the referral. | Referral to Discipline | Yes |
|------|---|------------------------|-----|

Panels of the ICR Committee cannot award financial compensation or compel a registrant to apologize.

### ***How long does the investigation take?***

The ICR Committee is required to conclude its investigation of complaints within 150 days. If this deadline is not met, a notice letter must be sent to the registrant and the complainant. Another notice is also required at 210 days.

Any concerns regarding a delay can be directed to the [Health Professions Appeal and Review Board \(HPARB\)](#).

### ***I don't agree with the ICR Committee's decision. What can I do?***

Both the registrant and the complainant have a right to request a review by HPARB if they disagree with the decision of the ICR Committee (unless the decision of the ICR Committee is to refer the matter to the Discipline Committee for a hearing).

HPARB is an independent adjudicative agency that reviews the decision to ensure that the investigation of the complaint was adequate, and that the decision was reasonable.

Requests for review must be received within 30 days of the date on which the registrant and the complainant were advised of the ICR Committee's decision. Information about how to request a review is included in the cover letter that accompanies the ICR Committee's decision.

## REPORTS

The CMRITO receives reports from a variety of sources.

In accordance with the RHPA, CMRITO receives mandatory reports from employers, facility operators, and other regulated health professionals when:

- a registrant's employment is terminated, suspended, or restricted for reasons of professional misconduct, incompetence, or incapacity (or where a registrant resigns their employment to avoid such action)
- a facility operator has reasonable grounds to believe that a registrant who practises at the facility is incompetent, incapacitated, or has sexually abused a patient
- a health information custodian takes any disciplinary action against a registrant because of that registrant's unauthorized collection, use, disclosure, retention, or disposal of personal health information
- a regulated health professional has reasonable and probable grounds, obtained in the course of their practice, to believe that a patient has been sexually abused by a CMRITO registrant

CMRITO also receives mandatory self-reports from registrants when:

- a registrant has been charged with an offence
- a registrant has been found guilty, or has pleaded guilty, to an offence
- a finding of professional negligence or malpractice has been made against a registrant
- a finding of professional misconduct or incompetence is made against a registrant by another body that governs a profession inside or outside Ontario

CMRITO also receives reports from police, the media, public health agencies, assessment bodies, and anonymous sources.

All reports that are received by CMRITO are reviewed by the Registrar through a process called Registrar's Review.

For reports regarding professional misconduct, incompetence, or sexual abuse, if the Registrar has reasonable grounds to believe that a registrant has engaged in professional misconduct or is incompetent, the Registrar can refer the matter to the ICR Committee for further investigation.

If the ICR Committee approves the Registrar's request to investigate a report further, an investigator is appointed. The investigator produces an Investigation Report, which is considered by the ICR Committee. After considering an Investigation Report, the ICR Committee issues a decision and reasons to the registrant involved. The ICR Committee may refer allegations of professional misconduct or incompetence against a registrant to a panel of the Discipline Committee for a hearing.

For reports regarding incapacity, the Registrar makes the inquiries they deem appropriate. The Registrar may report on those inquiries to the ICR Committee. The ICR Committee can then appoint an inquiry panel to make further inquiries. The inquiry panel may refer allegations of a registrant's incapacity to a panel of the Fitness to Practise Committee for a hearing.

## REFERRALS TO THE DISCIPLINE COMMITTEE AND THE FITNESS TO PRACTISE COMMITTEE

If the ICR Committee determines that allegations of professional misconduct should be referred to the Discipline Committee, a hearing is held before the Committee. Discipline hearings are open to the public. At a Discipline hearing, the Committee sits as an independent tribunal to reach a fair decision based on evidence presented by legal counsel for the College and the registrant/their legal counsel.

If an inquiry panel determines that allegations of incapacity should be referred to a panel of the Fitness to Practise Committee, a hearing is held before the Committee. Fitness to Practise hearings are not open to the public. At a Fitness to Practise hearing, the Committee sits as an independent tribunal to reach a fair decision based on evidence presented by legal counsel for the College and the registrant/their legal counsel.

### ***I've received professional conduct correspondence from the College and need advice. Can CMRITO staff assist me?***

The mandate of the CMRITO is to protect the public, not to advocate for its registrants. While CMRITO staff can assist registrants in understanding the College's professional conduct processes, they cannot provide registrants with advice (legal or otherwise).

Whether a registrant retains a lawyer to assist them with a professional conduct matter is up to them. Certain professional liability insurance providers provide legal advice if a complaint or report is made to the College. All CMRITO registrants who are practising the profession must hold professional liability insurance in accordance with the by-laws of the College. Registrants can contact their professional liability insurance provider to determine whether they can access legal advice or representation.

If you have any questions about the information set out in this publication, please contact the Professional Conduct Team at 416.975.4353, 1.800.563.5847, or [professionalconduct@cmrito.org](mailto:professionalconduct@cmrito.org).

