

COLLEGE OF RESPIRATORY THERAPISTS OF ONTARIO



Title: **Members Duty to Self-Report Information**

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BACKGROUND

Under the CRTO By-Law, and consistent with the *Health Professions Procedural Code*, ("the Code"), CRTO Members are required to self-report certain information about themselves to the CRTO. As outlined in section 23 of the *Code* and Articles 31.02 to 31.21 of the By-Law, some of this information may be available to the public on the Register¹.

This policy outlines the CRTO's expectations of Members with respect to self-reporting information concerning **charges and/or findings of guilt related to offences, findings of professional negligence or malpractice**, and **information regarding professional registration and conduct**, including **information from another regulatory body**.

Offences

Offences created by statute are called "an offence" and are determined by the courts - not administrative tribunals (such as the CRTO's Discipline Committee). Intentionally breaching the *Personal Health Information Protection Act, 2004* is an example of a reportable offence that could occur while a Member is practising. Members are not required to report municipal by-law infractions such as parking and zoning violations, or offences under the *Highway Traffic Act* such as speeding or rules-of-the-road violations.

All offences involving the Member's consumption of alcohol or drugs must be reported. Any offence that involves dishonesty, breach-of-trust or disregard for the welfare of individuals are examples of offences relevant to the suitability of a Member to practise, and must be reported (e.g., a failure to report a child in need of protection under the *Child and Family Services Act*).

When in doubt Members should err on the side of caution and report an offence to the CRTO. The Registrar, along with appropriate staff and the relevant committee (where appropriate), will review the report and determine if the offence is relevant to the Member's suitability to practise. If the CRTO determines that further investigation is required, the Member may be asked to provide additional information (e.g., contact information of the police officer or Crown attorney involved with the matter). In general, the CRTO will only take action if, after inquiring into the matter, it appears that the conduct reflects on a Member's ability to practise respiratory therapy ethically, safely and competently.

Findings of professional negligence or malpractice

CRTO Members are required to file written reports to the CRTO if there have been findings of professional negligence or malpractice made against them by a court. Administrative tribunals do not make findings of professional negligence or malpractice. Professional negligence generally involves making a mistake that harms a patient. These findings occur in civil proceedings or lawsuits.

POLICY

Offences

1. A Member is required to file a written report with the CRTO if the Member is **charged with any of the following on or after January 1, 2016:**
 - i. an offence under the *Criminal Code of Canada*;
 - ii. an offence under the *Health Insurance Act*;
 - iii. an offence related to prescribing, compounding, dispensing, selling or administering drugs under the *Controlled Drugs and Substances Act*;
 - iv. an offence that occurred while the Member was practising or that was related to the practice of the Member (other than a municipal by-law infraction or an offence under the *Highway Traffic Act*);
 - v. an offence in which the Member was impaired or intoxicated, or;
 - vi. any other charge or offence relevant to the Member's suitability to practiceⁱⁱ the profession.

The report must be submitted in writing to the CRTO within 30 days, or as soon as reasonably practicable after receiving the charge. In accordance with Article 31.13 of the By-Law, the report must contain:

- i. the fact and content of the charge;
- ii. bail conditions, where applicable, and;
- iii. where known, the date and outcome of the charge(s).

If the status of a charge changes the Member must file an additional report with the CRTO. The report will not contain any information that violates a publication ban.

2. A Member is required to file a written report with the CRTO if the Member is **found guilty** of:
 - i. an offence under the *Criminal Code of Canada*;
 - ii. an offence under the *Health Insurance Act*;
 - iii. an offence related to prescribing, compounding, dispensing, selling or administering drugs under the *Controlled Drugs and Substances Act*;
 - iv. an offence that occurred while the Member was practising or that was related to the practice of the member (other than a municipal by-law infraction or an offence under the *Highway Traffic Act*);
 - v. an offence in which the Member was impaired or intoxicated; or
 - vi. any other offence relevant to the Member's suitability to practiceⁱⁱⁱ the profession.

The report must be submitted in writing to the CRTO within 30 days or as soon as reasonably practicable after receiving notice of a guilty finding. In accordance with the Article 31.14 of the By-Law, the report must contain:

- i. the date and a summary of the finding;
- ii. the date and the sentence imposed, if any; and
- iii. where the finding is under appeal, a notation to that effect.

If the status changes as a result of an appeal, the Member must file an additional report with the CRTO. The report will not contain any information that violates a publication ban.

The information related to charges listed above will be included on the Register, along with findings of guilt.

Findings of professional negligence or malpractice

A Member is required to file a written report with the CRTO if there has been a finding of professional negligence or malpractice made against them by a court. In accordance with the Ss. 85.6.2 of the *Code*, the report must contain:

- i. the name of the Member filing the report;
- ii. the nature of, and a description of, the finding including a copy of any written decision or reasons provided for the determination;
- iii. the date that the finding was made against the Member;
- iv. the name and location of the court that made the finding against the Member; and
- v. the status of any appeal initiated respecting the finding made against the Member.

The report must be submitted in writing to the CRTO within 30 days, or as soon as reasonably practicable after receiving notice of the guilty finding. If the status changes as a result of an appeal then the Member must file an additional report with the CRTO. The report will not contain any information that violates a publication ban.

The CRTO will review the report and determine if any further investigation is required. The Member may be asked to provide additional information (e.g., copies of certain documents from the court files). In general, the CRTO will only take action if, after inquiring into the matter, it appears that the conduct reflects on a Member's ability to practise Respiratory Therapy safely and competently.

Information regarding professional registration or conduct

A Member must notify the CRTO, if:

- i. disciplined, suspended, required to resign, terminated or subjected to similar action at their place of employment or in relation to a contract of service;
- ii. the subject of any disciplinary, professional misconduct, incompetence, incapacity or similar proceedings, finding or investigation by any professional licensing or registration body other than the CRTO, whether inside or outside of Ontario.

Information related to disciplinary findings by other professional licensing or registration bodies, made after January 1, 2016, will be included on the Register.

The CRTO will review the report and determine if any further investigation is required. The Member may be asked to provide additional information (e.g., a copy of documents provided by the regulator in support of their proceedings). In general, the CRTO will only take action if, after inquiring into the matter,

it appears that the conduct reflects on a Member's ability to practise Respiratory Therapy safely, ethically and competently^{iv}.

Consequences for failing to self-report

Failure to report any of the above may result in a referral of professional misconduct allegations to the Discipline Committee.

This policy applies to self-reporting obligation only. There are, however, some situations where separate mandatory reporting obligations require Members to report on a colleague, such as for sexual abuse or in instances where a Member operates a facility, for termination of an RT. For general mandatory reporting obligations and requirements for reporting other health professionals, see sections 85.1 to 85.6 of the *Code* and CRTO documents concerning mandatory reporting.

ⁱ In accordance with S.23 of the *Regulated Health Professions Act, Procedural Code*, the CRTO must have a "Register" on its website that provides specific information regarding Members. The information available to the public may be expanded beyond the legislated requirements by By-Law.

ⁱⁱ See CRTO Policy RG-427 (Assessing Suitability to Practice) for additional information.

ⁱⁱⁱ Ibid.

^{iv} Ibid.