



## COLLEGE OF RESPIRATORY THERAPISTS OF ONTARIO

Title:	Members Duty to Self-Report Information
Number:	REG-Self-Report-Info-413
Date originally approved:	05/21/2009
Date(s) revision approved:	N/A

## POLICY

Under the new CRTO by-law, and consistent with the amended *Health Professions Procedural Code*, ("the Code"), CRTO Members are required to self-report certain additional information about themselves to the College for purposes related to registration. These new requirements apply to all health regulatory college members and are not retroactive (i.e., the policy does not apply to findings made before June 4, 2009 except to the extent that the finding was reportable under the rules then in place). Some of this information is public as outlined in section 23 the Code and Article 31.06 of the CRTO By-law (i.e., findings of professional negligence, but not findings of offences).

The following policy outlines the College's expectations of Members with respect to the self-reporting of information concerning 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

CRTO Members will be required to file written reports to the College, if after June 3, 2009, they are found guilty of:

- i) an offence under the *Criminal Code of Canada*;
- ii) an offence related to prescribing, compounding, dispensing, selling or administering drugs;
- iii) an offence that occurred while the Member was practicing 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*)
- iv) an offence in which the Member was impaired or intoxicated; or
- v) any other offence relevant to the Member's suitability to practice the profession.

Information related to offences will be kept on file at the College but will NOT be included on the public register. Offences created by statute, are called "an offence" and are determined by the courts, not administrative tribunals (such as the College Discipline Committee). An example of an offence that might occur while a Member is practising is an intentional breach of the *Personal Health Information Protection Act, 2004*. 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 rule 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 practice 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 any offence to the College. College staff and the relevant committee will review the report and determine if the offence is "relevant to the member's suitability to practice". The goal of the provisions is to shift the responsibility for determining whether questionable offences should be reported away from the Member (who may not be in the most objective position to make this assessment and thus are required to automatically report any potentially relevant offences).

The report must be in writing and submitted to the CRTO as soon as reasonably practicable after receiving notice of the finding of guilt. In accordance with the Code the report must contain,

- (a) the name of the member filing the report;
- (b) the nature of, and a description of the offence including a copy of any written decision or reasons provided for the determination;
- (c) the date the member was found guilty of the offence;
- (d) the name and location of the court that found the member guilty of the offence; and
- (e) the status of any appeal initiated respecting the finding of guilt.

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

The College will review the report and determine if any further investigation is required. Members may be asked to provide additional information (e.g., for the contact information of the police officer or Crown attorney who knows most about the matter). In general the College will only take action if, after inquiring into the matter, it appears that the conduct reflects on a Member's ability to practice respiratory therapy ethically, safely and competently.

### **Findings of professional negligence or malpractice**

CRTO Members will be required to file written reports to the College, if after June 3, 2009, there has been a finding 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 law suits. Unlike offences, the College must post the court findings of professional negligence or malpractice on the public register.

The report must be in writing and submitted to the CRTO as soon as reasonably practicable after receiving notice of the finding of guilt. In accordance with the Code the report must contain,

- (a) the name of the member filing the report;
- (b) the nature of, and a description of the finding including a copy of any written decision or reasons provided for the determination;
- (c) the date that the finding was made against the member;
- (d) the name and location of the court that made the finding against the member; and
- (e) the status of any appeal initiated respecting the finding made against the member.

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

The College will review the report and determine if any further investigation is required. Members may be asked to provide additional information (e.g., copies of certain documents from the court files). In general the College 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 and conduct**

Members should notify CRTO:

- (i) if they have been 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) if they have been the subject of any professional misconduct, incompetence, incapacity or similar proceedings, finding or investigation by any professional licensing or registration body other than the CRTO.

Again, the College will review the report and determine if any further investigation is required. Members 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 College will only take action if, after inquiring into the matter, it appears that additional measures are required by the College to ensure that the member practices respiratory therapy ethically, safely and competently.

These new provisions are a self-reporting obligation only. Other practitioners do not have to make a report if they become aware of a finding made against someone else, although in some circumstances a Member may conclude that he or she has an ethical obligation to notify the College of a serious court finding. There are, however, some situations where separate mandatory reporting obligations require one to report on a colleague, such as for sexual abuse, where one terminates a relationship with a colleague and where one operates a "facility". For general mandatory reporting requirements and requirements for reporting other health professionals see sections 85.1 to 85.6 of the Code and CRTO documents concerning mandatory reporting.

### **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.

K:\CRTO DOCUMENTS-ISSUES\POLICY\_PROCEDURES\REGISTRATION (RG)\FINAL & PDF\RG-413.DUTY.TO.SELF.REPORT.POLICY.DOC