

# KEEPING CURRENT

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## The Expansion Of The CPO Public Register – And What It Means For Physiotherapists

By Lad Kucis

Over the past couple of years, the College of Physiotherapists of Ontario (CPO) has made a number of revisions to its by-laws which have greatly expanded the types of information that must be placed on the Public Register.

The new information includes concerns relating to a physiotherapist's professional practice, as well personal conduct issues, such as criminal charges and findings of guilt.

This Legal Bulletin will summarize the types of concerns that must now be posted on the Public Register<sup>1</sup> and will also set out the potential repercussions that these changes may have for physiotherapists.

### Concerns to be Posted

- **Oral Cautions** – a summary of any oral caution ordered by the Inquiries, Complaints and Reports Committee (ICRC), resulting from a complaint made on or after July 1, 2015. In most cases, oral cautions will remain on the Public Register for 3 years.
- **Specified Continuing Education or Remediation Programs (SCERPs)** – a summary of any SCERP ordered by the ICRC, resulting from a complaint made on or after July 1, 2015. SCERPs are remedial in nature and are ordered if the ICRC identifies a serious care or conduct concern and believes that a skills upgrade is required. As with oral cautions, SCERPs will typically remain on the Public Register for 3 years.

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- **Certain Undertakings** – a summary of any undertaking ordered by the ICRC, resulting from a complaint made on or after July 1, 2015.
- **Referrals to Discipline Committee** – a summary of any charges of professional misconduct or incompetence that have been referred to the Discipline Committee, including the specified allegations, particulars of each charge and the status of the hearing (i.e. whether it is awaiting scheduling, the date of the hearing, whether the decision is under reserve, etc.).
- **Findings of Professional Misconduct by Discipline Committee** – a summary of any findings of professional misconduct or incompetence made by the Discipline Committee. If a Discipline Committee decision is under appeal, the fact and status of the pending appeal will also be noted.
- **Findings of Professional Misconduct by Other Regulators** – a summary of any findings of professional misconduct or incompetence made against a physiotherapist by any regulatory body that governs a profession, either inside or outside Ontario, made on or after July 1, 2015.
- **Criminal and Other Charges** – a summary of any currently existing charges against a physiotherapist under the Criminal Code of Canada or the Health Insurance Act, made on or after July 1, 2015.
- **Findings of Guilt re Criminal and Other Charges** – a summary of any findings of guilt under the Criminal Code of Canada or the Health Insurance Act, made on or after July 1, 2015. If the finding is under appeal, a notation of the fact is to be posted until the appeal is finally disposed of.
- **Court Orders** – a summary of any existing restriction imposed by a court or other lawful authority, on or after July 1, 2015, that the Registrar determines may restrict or otherwise impact a physiotherapist’s ability to practice.

## Repercussions for Physiotherapists

In my professional opinion, the following are some potential repercussions flowing from the posting of the above concerns on the Public Register:

- **Criminal Matters are Now Public** – in view of the requirement to post information about criminal charges and findings of guilt, as well as restrictions imposed by a court (i.e. bail conditions) in certain circumstances, physiotherapists need to be more mindful than ever about their personal conduct.
- **Public Stigma** – the posting of the above listed concerns will certainly result in an increased level of stigma for physiotherapists, who will now have to deal with the fact that patients, fellow



physiotherapists and other members of the public will have access to additional types of information about them.

- **Increase in Number of Complaints** – in my view, it is reasonable to assume that a physiotherapist who has concerns posted about them on the Public Register faces an increased risk of being the subject of a future complaint.
- **Heightened Importance of Complaint Responses** – because oral cautions and SCERPs are now posted on the Public Register, physiotherapists need to be very diligent in responding to complaints, even where the allegations do not appear overly serious. To ensure that their interests are protected, physiotherapists would be well advised to obtain the assistance of experienced legal counsel as soon as they receive a complaint – as in many cases, waiting until you receive an ICRC decision is too late.
- **Reviews of ICRC Decisions** – physiotherapists should seriously consider requesting a Review of an ICRC decision by the Health Professions Appeal and Review Board, if an oral caution or SCERP has been ordered against them. In the past, physiotherapists rarely requested such Reviews, since oral cautions and SCERPs were not posted on the Public Register.

## Conclusion

Physiotherapists need to be fully aware of this new legal landscape and would be well advised to make all reasonable efforts to ensure that there are no concerns posted about them on the Public Register.

## About the Author

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## Endnotes

1. For a full listing of information that is required to appear on the Public Register, please refer to section 33 of the CPO By-Laws and section 23 of the Health Professions Procedural Code, which is Schedule 2 of the Regulated Health Professions Act, 1991.