



# EMPLOYERS

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## WHAT YOU NEED TO KNOW ABOUT UNAUTHORIZED OT PRACTICE

### COTO Position Statement: Use of Title

One of the central elements of the *Regulated Health Professions Act* (RHPA, 1991) and the *Occupational Therapy Act* (1991) is the protection of title. In Ontario, the title “Occupational Therapist” or “O.T.” or any variation or abbreviation of them, is reserved for individuals registered with the College of Occupational Therapists of Ontario. In addition, it is also illegal for a person to hold themselves out as an occupational therapist (e.g., working in a position usually reserved for occupational therapists without clearly indicating to colleagues and clients that one is not an occupational therapist) even if he or she does not use the O.T. title. Title protection, as part of the regulation of a profession is one mechanism used to help the public readily identify those individuals who are registered with the College and are subsequently accountable for the delivery of occupational therapy service that meets the established standards of the profession. It is in fact a privilege extended to those occupational therapists who have met the entry requirements to practise and maintain their accountability to a regulatory body for continued competence. Only Registrants of the College are entitled in law to use the title occupational therapist or to hold themselves out as qualified to be an OT. As such, the College is required to monitor and ensure compliance with this law.

Generally, if someone contravenes this law, the Registrar then has doubts about her/his future ability to adhere to other laws, regulations and standards of practice. The legislation provides for a fine of up to \$25,000 for the first offense and \$50,000 for the second offense, emphasizing the importance of this law.

### Legal Implications for Employers

Employers have a legal obligation to ensure their employees are registered and not engaged in unauthorized practice. Under the RHPA and other law, employers of individuals who contravene the law are subject to fines. Furthermore, if there is a complaint or an incident involving an employee who is found to be not registered, there could be significant consequences for the employer in terms of liability. The College Registration process helps ensure that Registrants have the necessary qualifications, such as education and insurance, to practise safely and ethically. It is important to be aware of your obligations as an employer, and the potential consequences for neglecting these responsibilities.

Registration is required when an individual, regardless of her/his nature of practice works as an occupational therapist; **this includes orientation and training at the work place**. The rationale is that new employees are being introduced to colleagues (and sometimes even clients) as new occupational therapists, and there is a perception that they are registered health care professionals.

### Beyond Clinical Practice, Non-Clinical OT Practice

To help understand these concepts, ‘use of title’ and ‘holding out,’ it is important to recognize that occupational therapy transcends clinical practice and direct client care. A significant portion of occupational therapists in Ontario work in administrative and management positions. The College values and considers non clinical OTs to be an integral part of, and important leaders and influencers of the profession.

Accordingly, individuals in these occupational therapy roles are required to be registered as occupational therapists and participate in College programs and processes. Sometimes OTs are promoted to managerial positions that are non clinical in nature. These positions often require the individual to be a registered health care professional, accountable professionally as well as to an employer. The issue is really around whether the individual is hired based on their OT knowledge, skills, judgment, educational background or status and is expected to be a regulated health care professional to do the job.

### Re-Registration, Return from Parental or Other Leave

Do not assume that employees returning from a leave are registered. Many employees opt to resign their Certificate of Registration when they take a leave from employment. Employers must ensure that employees re-register with the College prior to returning to a position where they will be hold themselves out to be an occupational therapist. There is an expectation that these employees are registered health care professionals. Verifying that your employees have re-registered prior to returning to work affirms the notions of transparency and accountability, the founding principles of the RHPA.

### Registration Committee Conduct Review

If it is discovered that an individual has begun work as an occupational therapist and she/he is not registered, the individual is told to cease and desist work immediately and is not in a position to resume work as an occupational therapist until she/he is duly registered with the College. This delay in beginning work often causes disruptions to the employer who was counting on the individual to start work. The College is obligated to inform employers of the misuse of title or holding out issue. While confidentiality obligations on the College limit what the employer can be told, the employer is often involved in the investigation process.

### Steps Employers Can Take

Registration with the College is generally quick and straightforward where there is no issue of misuse of title or holding out. The College appreciates the pressure employers are under to fill positions and orient employees as quickly as possible, however unauthorized practice is entirely preventable. Employers can take steps to ensure that prospective employees are registered with the College before they begin work. The Public Register, accessible on the College website, contains all of the publicly available information about registered occupational therapists in Ontario in real time. To confirm the registration status of a prospective employee, click on the ‘OT Directory’ link on the College homepage, and fill in one or more of the search fields. Employers are encouraged to contact Registration Program staff by telephone or email if they have any questions regarding this process or the registration status of an individual.

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