



## COUNCIL AGENDA

**DATE:** Thursday, March 25, 2021 **TIME:** 9:00 a.m. to 3:00 p.m. (Elections 3:00 – 4:00 p.m.)

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Agenda Item		Objective	Attachment	Time
1.0	Call to Order			10 min
2.0	Public Protection Mandate			
3.0	Land Acknowledgement Statement*			
4.0	Declaration of Conflict of Interest			
5.0	Approval of Agenda	Decision	✓	
6.0	Consent Agenda			
	<ul style="list-style-type: none"> <li>Registrar's Written Report of March 25, 2021</li> <li>Draft Council Minutes of January 28, 2021</li> <li>Executive Committee Minutes of January 11, 2021</li> <li>Governance Committee Minutes of January 14, 2021</li> <li>Nominations Committee Report of March 25, 2021</li> </ul>	Decision	✓	10 min
7.0	Registrar's Report			
7.1	Presentation: <i>Operational Status Report for Q3 FY 20/21</i> by Elinor Larney, Registrar	Information		10 min
7.2	FY20/21 Q3 (Jan) Financial Report	Decision	✓	10 min
7.3	2020 Investment Report	Information	✓	5 min
7.4	Quarterly Performance Report	Decision	✓	15 min
7.5	Risk Management Report	Decision	✓	10 min
7.6	College Performance Measurement Framework (CPMF)	Decision	✓	15 min
<b>Break - 15 min</b>				
8.0	Governance			
8.1	Annual Council Evaluation Summary	Information		10 min
8.2	Elections Update – Districts 3, 5, 6	Information	✓	1 min
8.3	Appointment of Non-Council Member – QA Subcommittee	Decision	✓	5 min
8.4	Appointment of Non-Council Member – Patient Relations	Decision	✓	5 min
8.5	Council Competencies	Decision	✓	20 min
8.6	Revised Code of Conduct	Decision	✓	15 min
<b>Enterprise System Discussion – 11:30, in Camera</b>				
<b>Lunch Break – meeting to resume at 1:00</b>				

	Agenda Item	Objective	Attachment	Time
<b>9.0</b>	<b>Council Education</b>			
	Presentation: <i>Reduction of Investigations and Resolutions Case Completion Times</i> by Aoife Coghlan, Manager of Investigations and Resolutions			20 min
<b>10.0</b>	<b>Environmental Scan</b>			
<b>11.0</b>	<b>New Business</b>			
	<b>11.1</b> Motion to Go in camera (at 11:30) <i>Pursuant to 7(2)(b) of the Code – Re: Financial Matters</i>	Decision	✓	30 min
	<b>11.2</b> Use of Social Media	Decision	✓	20 min
	<b>11.3</b> Revised Standards for Prevention and Management of Conflict of Interest	Decision	✓	20 min
<b>12.0</b>	<b>Other Business</b>			
	<b>12.1</b> Council Meeting Evaluation	Complete & Submit	<i>Link to follow</i>	
<b>13.0</b>	<b>Next Meetings</b>			
	<ul style="list-style-type: none"> <li>Council Meeting: Thursday, June 24, 2021, 9:00 AM – 3:30 PM, Location TBA</li> </ul>			
<b>14.0</b>	<b>Special Presentation:</b> Farewell to departing members, Peter Shenfield, Sophie Xu & Jeannine Girard-Pearlman			
<b>15.0</b>	<b>Adjournment</b> ( <i>Council Elections to follow</i> ) <i>Possible Break Prior to Elections Meeting.</i>			

\* **Land Acknowledgement and Commitment to Stronger Engagement**

*As an important part of our commitment to reconciliation, the College of Occupational Therapists of Ontario recognizes the traditional territories on which we live and work (physically or remotely) every day, across what is now known as Ontario. This includes distinct groups of First Nations Peoples: Algonquin, Mississauga, Ojibway, Cree, Odawa, Potawatomi, Delaware, and the Haudenosaunee – Mohawk, Onondaga, Oneida, Cayuga, Tuscarora, and Seneca.*

*Other Indigenous Nations also have long standing relationships with the land in parts of this province including the Wendat, and the Métis Nation.*

*To meaningfully engage with this community, the College has reviewed the Truth and Reconciliation Commission's (TRC) report. Calls to Action 18-24 addresses the health disparities faced by Indigenous Peoples and how poor health outcomes are linked to the complex histories and ongoing realities of Indigenous peoples in Canada. In particular, we acknowledge how these disparities have been laid bare and magnified by the COVID-19 pandemic. The College and its registrants will work to reduce these health disparities by ensuring that OTs are competent to provide services that the community has a right to and is acceptable to them.*



## REGISTRAR'S REPORT

### Council Meeting of March 25, 2021

#### Governance Monitoring Report

As per Council Registrar Linkages Policy CRL5 - Monitoring Registrar Performance, there are no specific policy groupings that are meant to be reviewed at the March meeting.

#### Governance Process Policies

Policies that guided decisions during this period:

- GP17 – Elections and Appointments for Professional Members has guided the elections process in Districts 2, 5 and 6 for the 2021 Election.

#### Registrar Limitation Policies

I am pleased to inform Council that I am not in contravention of any of the Registrar Limitation policies.

Policies of this category that guided decisions during this period:

- RL 4 Treatment of Registrants – has guided the ongoing communications with Registrants related to information about the Pandemic vaccine rollout to eligible registrants.
- RL 5 Financial Conditions and Activities – has guided the addition of the Enterprise System Procurement to the Council agenda.
- RL 7 Investments – Has guided the presentation of the investment report to Council.
- RL12 Risk Management - has guided the information to be presented to Council on the Risk Management Program.

#### For Your Information:

#### **LEADERSHIP PRIORITY #1: PUBLIC CONFIDENCE**

#### 2020-21 Operational Planning

The third quarter of the first year of the new strategic plan year has passed, and an update will be presented at Council on the status of initiatives.

#### College Operations

##### Staffing Update

- In the last Registrar's update, I noted that I had no changes to report, which might have been the very first time I have said that. We now have some changes to report.
- In February, we said goodbye to Clara Lau, Manager, Registration.
- In March, we welcomed back Brandi Park to the role of Manager, Registration. Some of you might remember Brandi, as she has previously worked in this role.
- This year, the College is embarking on a review of its staffing and the way we are organized to ensure we are set up appropriately for the future. Currently, we are in the midst of information gathering and reviewing options.

## **COVID – 19 Update**

- Directive 2 continues to be in place, mandating the health care system offer virtual services where possible, and proper health and safety protections for any in-person services.
- Despite the lockdown that was put into place, the health care system was not shut down, as in the spring of 2020, so while OTs continue to be significantly impacted by the pandemic, they are not prohibited from providing services.
- With the continued roll-out of COVID-19 vaccines, the College is now receiving requests from multiple public health units asking us for information about numbers of occupational therapists in their area and/or asking us to contact these occupational therapists so they can register for a vaccine. What we understand is that each public health unit is managing their priorities in different ways. Many of them have utilized other methods of informing eligible health care professionals in their areas and may or may not utilize colleges to assist to disseminate this information. The College is prioritizing these requests due to their importance. We know that occupational therapists in private practice may not receive this information in any other way. A formal request has come to the College from the Ministry of Health requesting cooperation of all colleges. Please see this request in your FYI package. As of writing this, the College has received multiple requests to support vaccination efforts.
- Monitoring and managing activities related to COVID-19 continues to be a priority for the College. Other priorities and initiatives have resumed as much as possible.
- The College continues to operate remotely, and all programs are in full operation.

## **Communications Program**

- COVID-19 communications remain a priority. Communications is supporting the distribution of vaccination information from the provincial Public Health Units, with each of the Units requesting outreach that aligns with their respective vaccination rollouts.
- Communications efforts have been focused on the development of the bilingual CORECOM national marketing strategy, which launched in February 2021. All marketing materials are being developed in-house by the College communications team as an in-kind contribution to this important initiative.
- Online elections have now been completed with results reported. Support for key College functions, such as annual renewal, continues.
- Other projects are in development, including College and Ontario Health Regulators outreach activities and the development of new videos.

## **LEADERSHIP PRIORITY #2: QUALIFIED REGISTRANTS**

### **Registration Program**

- The College has initiated annual renewal a few weeks earlier this year to allow for more flexible payments to be included in the process. We were able to utilize the registrant management system to set up a process whereby registrants can select to pay by installment during the renewal period (March-May) based on how early they start the process. Anyone experiencing financial hardship may contact the College to determine what options might be available. Any options are always a manual process that requires lots of time and resources, however the pandemic continues to have a significant impact on some of our registrants.

- The College received a letter from our provincial association, the Ontario Society of Occupational Therapists (OSOT), requesting flexibility in payments again this year. Note their letter and my response in your FYI package.
- The renewal fees will remain the same, no increase is planned for this year. Note: The College has not increased the renewal fees since 2007.
- The registration program has received the results of the first remotely delivered certification exam for occupational therapists in Ontario. Due to the pandemic, our exam provider, the Canadian Association of Occupational Therapists (CAOT), pushed ahead their timelines to deliver this exam via computer, versus the paper and pencil process of old. While there were some minor issues, the process could be considered a success for its first run.

### **LEADERSHIP PRIORITY #3: QUALITY PRACTICE**

#### **Quality Assurance Program**

- Staff continue to develop the 2021 PREP module on Ethics and Professionalism.
- Priorities for the Quality Assurance Program have been to train the new peer assessors engaged to deliver the virtual peer and practice assessments. The tools for this process have been updated. Also, the program continues to develop step 2 of the selection process for the peer and practice assessments. Focus groups have been initiated with the consultant to assist with this part of program development. The goal is to implement the entire redeveloped program in the next fiscal year.
- Additional registrants have been selected to participate in the peer and practice assessment this spring.

#### **Practice Resource Program**

- The practice resource service provides information and resources to the public, employers, other professionals, OTs and other stakeholders about expectations for OT practice. They receive inquiries either by phone or email. COVID-19 continues to be a topic of inquiry.
- The survey for registrants that was sent to collect information from OTs about their experiences with Diversity, Equity and Inclusion has now closed. Currently, one of our student occupational therapists is actively analyzing the preliminary data and feedback. Four student occupational therapists from McMaster will assist the team to further analyze the data collected and start us on the path to making and implementing recommendations.
- The College continues to host two student occupational therapists from the University of Toronto working with the practice team and the patient relations program. They will be with us until April 2. In addition, we have another student from the University of Ottawa who will finish the week of April 9. All these students assist the College to deliver on meaningful projects and allow a space for these students to complete their fieldwork.
- The practice team continues to deliver their outreach activities to specific employer groups based on their needs. Topics include prioritization of caseloads and resource management, record keeping etc.
- The webinar on the topic of assessments and discontinuing services was well attended by over 350 participants. Practice resource staff are planning for presentations to student groups through the universities.

### **Investigations and Resolutions Program (I and R)**

- A continued goal of this program has been to reduce case completion times. Aoife Coghlan will present the outcome of their efforts during the meeting.
- You will also note, the outcome of the College's most recent discipline hearing is in your FYI package. This case is under appeal.

### **LEADERSHIP PRIORITY #4: SYSTEM IMPACT**

#### **Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO)**

- I continue as President of ACOTRO. We had our Board meeting, virtually, in February 2021, and our next meeting is May 2021.
- The College, along with other ACOTRO members, met with the Canadian Institute for Health Information (CIHI) in February 2021. This meeting was the start of learning about their processes to evaluate the data collected about occupational therapists through our provision of renewal data to them.
- CORECOM - ACOTRO has engaged with the Canadian Association of Occupational Therapists (CAOT) and the Association of Canadian Occupational Therapy University Programs (ACOTUP) to work together towards developing one set of competencies for the profession. The three organizations form the Steering Committee for the project. The project is nearing completion. Currently the draft competencies have been distributed across Canada to all occupational therapists for general consultation. ACOTRO will be meeting in early April to discuss the impact of these competencies on their work. The website for the project is [www.corecomcanada.com](http://www.corecomcanada.com). The goal for completion of the project is spring 2021.
- You will notice in your FYI package a letter from the Saskatchewan Society of Occupational Therapists (SSOT). Unlike Ontario, SSOT has been a combined regulatory body as well as an association. They are now proposing to separate these two functions into two distinct organizations to align with best regulatory practices.
- The Substantial Equivalency Assessment System (SEAS) for internationally-educated occupational therapists (IEOTs) is in full operation. The current projects underway are about reviewing and developing appropriate programs to assist IEOTs to fill any identified gaps in their competencies. This is a challenge for a small profession with limited numbers of IEOTs. Several options are being evaluated.

#### **Health Profession Regulators of Ontario (HPRO) *formerly the Federation of Health Regulatory Colleges of Ontario (FHRCO)***

- I continue to act as Vice President of this organization. Being part of the management committee of HPRO has helped me connect with other colleges and to stay abreast of the issues affecting regulation.
- HPRO has been focused on collaborative initiatives to assist colleges in fulfilling their regulatory roles. Current collaborative efforts include working together to share resources and information related to COVID-19 and the vaccine roll out, and completion of the College Performance Measurement Framework (CPMF).

### **Ministry of Health (MOH)**

- Public Member appointments – All of the applications for reappointment have been submitted to government for their consideration for reappointment. We are waiting to hear about the status of these.
- College Performance Measurement Framework (CPMF) – The completed report is in your package and will be on the agenda for approval.

### **Office of the Fairness Commissioner – (OFC)**

- I continue working on the committee to provide input into the revised processes that the OFC hopes to implement regarding restarting their audits of registration practices. In addition, it appears that a new committee will be started to review the requirements related to use of third parties by colleges. I have been asked to participate in that process as well.

### **Truth and Reconciliation Report and College Activities**

- Last year at annual renewal, the College sought to have OTs who identify as Indigenous voluntarily self-identify during this process. The goal was to establish a baseline number and to measure the increase over time. (One of the recommendations from the Truth and Reconciliation Report was to increase the numbers of health practitioners with Indigenous heritage as a strategy to reduce the health disparities experienced by Indigenous peoples.)
- In analyzing the information obtained at renewal in 2020, and after some data validation, we can now report that: 38 registrants self-identified as Indigenous (.6% of total registrants), 9 answered “unsure,” and 69 registrants selected “prefer not to answer.”
- We recently reached out to these OTs to see if they would be willing to speak with the College to share their experiences, which was one of the recommendations from our Indigenous Consultants. We have started that process with more to come.
- Council received some education from our Indigenous Consultants in October. In February, staff of the College were also able to participate in an education session, which was well received.

### **Diversity, Equity and Inclusion (DEI)**

- Last year we updated our values to include a specific section related to diversity, equity and inclusion based on our strategic planning activities. In spite of the ongoing pandemic, work continues this year on DEI initiatives. In practice, the survey has gone out to collect information from registrants to help to determine what resources are needed for OTs. From an organizational viewpoint, the College has engaged a DEI consultant to help us learn and move forward as an organization. The first goal is to review our policies, practices and procedures with a DEI lens to inform revisions. This project will evolve over time as we determine any needed changes.

See you at the meeting! Elinor



## DRAFT COUNCIL MINUTES

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**DATE:** Thursday, January 28, 2021 **FROM:** 9:00 a.m. – 3:30 p.m.

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In Attendance:

### MEMBERS

Jeannine Girard-Pearlman, *Chair*  
Paola Azzuolo  
Neelam Bal  
Donna Barker  
Evelyn Chau  
Michael Dauncey  
Mary Egan  
Allan Freedman  
Jennifer Henderson  
Heather McFarlane  
Carol Mieras  
Aruna Mitra  
Vincent Samuel  
Stephanie Schurr  
Teri Shackleton  
Peter Shenfield  
Michelle Stinson

### REGRETS

Sophie Xu

### GUESTS

Dr. Ruth Gallop

### OBSERVERS

Christie Brenchley, *Ontario Society of Occupational Therapists*  
Sarah Kibaalya, *Ministry of Health of Ontario*

### STAFF

Elinor Larney, *Registrar*  
Sandra Carter, *Practice Consultant*  
Aoife Coghlan, *Manager, Investigations & Resolutions*  
Aida da Silva, *Finance & Human Resources Coordinator*  
Carli DiMinni, *Investigations & Resolutions Coordinator*  
Julie Entwistle, *Deputy Registrar*  
Sarah Karas, *Office administration/Junior Associate*  
Stamatis Kefalianos, *Manager, Regulatory Affairs*  
Lesley Krempulec, *Practice Consultant*  
Clara Lau, *Manager, Registration*  
Vanessa Lim, *OT Student*  
Tim Mbugua, *Policy Analyst*  
Nabila Mohammed, *Director of Finance and Corporate Service*  
Nithusa Nithi, *Investigations & Resolutions Associate*  
Miriam Price, *OT Student*  
Olena Repekha, *Executive Assistant*  
Adrita Shah Noor, *Case Manager, Investigations & Resolutions*  
Nancy Stevenson, *Director of Communications*  
Andjelina Stanier, *Executive Assistant, Scribe*

### 1.0 Call to Order

Chair Jeannine Girard-Pearlman welcomed everyone and called the meeting to order at 9:02 a.m.

### 2.0 Public Protection Mandate

The Chair reminded Council members that the purpose of their work is to protect the public and that all decisions are made in that light.

### 3.0 Land Acknowledgement

The Chair invited everyone to silently read and reflect on the Land Acknowledgement Statement. (Appendix 1).

#### 4.0 Declaration of Conflict of Interest

The Chair asked for any declarations of conflict of interest. None were declared.

#### 5.0 Approval of Agenda

The Chair asked for changes to the agenda. None were reported.

MOVED BY: Carol Mieras

SECONDED BY: Paola Azzuolo

*THAT the agenda be approved as presented.*

**CARRIED**

#### 6.0 Approval of Consent Agenda

The Chair asked for edits or other changes to the consent agenda items as listed below:

- Registrar's Report of January 28, 2021
- Draft Council Minutes of October 29, 2020
- Approved Governance Committee Minutes of December 3, 2020

MOVED BY: Allan Freedman

SECONDED BY: Jennifer Henderson

*THAT Council approves the consent agenda items as presented.*

**CARRIED**

#### 7.0 Registrar's Update

##### 7.1 Registrar's Presentation – Operational Project Status Report

Elinor reported on operational areas of focus for Q2 FY20/21 related to strategic objectives for Year 1 of the 2020-2023 Strategic Plan.

##### 7.2 FY20/21 Q1 Financial Report

Nabila Mohammed presented the financial report and responded to questions.

MOVED BY: Peter Shenfield

SECONDED BY: Stephanie Schurr

*THAT Council receives the November 2020 Financial Report, Statement of Financial Position and Statement of Operations, as presented.*

**CARRIED**

##### 7.3 Proposed 2020-2023 Quarterly Performance Report

Julie introduced the College's proposed new reporting tool, *Quarterly Performance Report*, which would replace the *Priority Performance Report*. This new format aligns with the Ministry College Performance Management Framework (CPMF) reporting requirements and combines performance indicators and data, with information from quarterly committee reports. Committee Chairs would continue to review and provide feedback prior to distribution. A decision to include

this report as a separate agenda item or as part of the Consent Agenda will be made at a future date. Council was asked to approve this new reporting format for implementation.

MOVED BY: Stephanie Schurr

SECONDED BY: Carol Mieras

***THAT Council approves for implementation, the proposed 2020-2023 Quarterly Performance Report.***

***THAT Council receives the Quarterly Report for Q1 and Q2 of the 2020-2021 fiscal year.***

**CARRIED**

#### **7.4 Risk Management Report**

Elinor reported on risk issues and responded to questions. Overall, the level of risk remained the same with the exception of one new risk the College is monitoring related to Annual Renewal fees for 2021. The College continues to show great compassion for OTs experiencing financial hardship and will remain flexible by offering some payment installment opportunities for OTs who need this option.

MOVED BY: Jennifer Henderson

SECONDED BY: Donna Barker

***THAT Council receives the Risk Management Report.***

**CARRIED**

#### **7.5 College Performance Management Framework (CPMF)**

Julie provided an overview of the new CPMF reporting requirements and reported on ongoing measures the College has undertaken, including meeting with the Ministry, to ensure the report is completed by the March 2021 deadline. Council will be asked to approve the completed report at the March Council meeting. No additional related costs are anticipated at this time.

### **8.0 Governance**

#### **8.1 Elections Update – Districts 3, 5 & 6**

Elinor informed Council that in 2021, the regular election will take place in districts 3, 5 & 6. The Call for Nominations is currently underway. Nominations have been received for each district. Nominations close tomorrow, January 29, 2021.

#### **8.2 Appointment of Nominations Standing Committee**

Elinor explained the Nominations Committee is appointed by Council annually to oversee the officer election process which takes place at the March Council meeting. The committee is comprised of a minimum of two Council members who are either retiring from Council or who do not wish to stand for a position, even if nominated. The appointment of a mix of public and professional members is preferred, however, College bylaws do allow for the appointment of only public or only professional members. The Chair called for volunteers.

MOVED BY: Stephanie Schurr

SECONDED BY: Teri Shackleton

***THAT** Council approves the appointment of Paola Azzuolo, Mary Egan, Michelle Stinson and Neelam Bal to the Nominations Committee.*

**CARRIED**

### **8.3 Proposed Bylaws Amendments**

Stamatis reported that the bylaws consultation approved by Council in October 2020 is now complete and feedback was reviewed by the Governance Committee. Proposed changes were vetted by legal counsel and incorporated into the draft bylaws. A discussion was held regarding the new 3-year cooling off period which relates to the eligibility for election or appointment to Council for individuals who are/were directors or members of other professional boards or councils prior to seeking a seat on Council.

MOVED BY: Peter Shenfield  
SECONDED BY: Carol Mieras

***THAT** Council approves the proposed amendments to the College bylaws as presented.*

**UNANIMOUSLY CARRIED**

### **8.4 Terms of Reference – Executive, Governance, and Finance, Audit and Risk Committees**

Stamatis explained that as part of the governance modernization initiative, the terms of reference for 3 committees of Council are brought forward for approval.

MOVED BY: Peter Shenfield  
SECONDED BY: Aruna Mitra

***THAT** Council approves the amended Terms of Reference for the Executive Committee, to commence in April 2021.*

***THAT** Council approves the amended Terms of Reference for the restructured Governance Committee, to commence in April 2021.*

***THAT** Council approves the new Terms of Reference for the Finance, Audit and Risk Committee, to commence in April 2021.*

**CARRIED**

### **8.5 Policy Review – Honoraria, Allowable Expenses**

Elinor explained that the Honoraria and Allowable Expenses policies are reviewed annually by Council. No changes in rates are recommended at this time. Council requested several wording changes for clarity and changes to terminology in line with the governance modernization initiative.

MOVED BY: Stephanie Schurr  
SECONDED BY: Neelam Bal

***THAT** Council maintains the same per diem rates and allowable expenses as approved in 2020, and that Council approves today's changes in language for clarity.*

**CARRIED**

## 9.0 Council Education

**Presentation:** *Prevention of Sexual Abuse in the Professional Relationship, by Dr. Ruth Gallop.*

## 10.0 New Business

### 10.1 Cross-Jurisdictional Telepractice

Elinor explained there is an increasing demand for OTs to practice remotely and as such issues with managing registration have arisen if OTs practice in more than one province. The Association of Canadian Occupational Therapy Regulators (ACOTRO) is recommending that, for the purposes of registration, practice occurs where the OT is located. Registration would therefore only be required in the province from which the OT is physically practicing. This change would be implemented in June 2021.

MOVED BY: Vincent Samuel

SECONDED BY: Peter Shenfield

**THAT** Council approves the implementation of the Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO) recommendation regarding cross-jurisdictional telepractice so that for the purposes of registration, practice occurs where the occupational therapist is located.

**CARRIED**

### 10.2 Retirement of Guide to the Code of Ethics

Tim Mbugua explained that following a full review and revision of the *Code of Ethics*, which Council approved for publication in October 2020, the Patient Relations Committee now recommends to Council the retirement of the *Guide to the Code of Ethics* document. The *Guide*, which is an accompanying document to the *Code of Ethics*, is outdated and inconsistent with other documents, repetitive and infrequently viewed online. The committee also recommends that the appendix, which summarizes legislative and College resources on the *Code of Ethics* principles, be retained and posted as a summarized resource online.

MOVED BY: Carol Mieras

SECONDED BY: Stephanie Schurr

**THAT** Council approves that the *Guide to the Code of Ethics* be retired.

**CARRIED**

### 10.3 Revised Guide to Discontinuation of Service

Lesley explained that in compliance with the 5-year regular review cycle of College documents, the *Guide to Discontinuation of Services* was last reviewed in 2014. The Practice Issues Subcommittee recommends changes, including title change, based on feedback gathered from an environmental scan and the Citizen Advisory Group. Council recommended several additional changes to wording.

MOVED BY: Jennifer Henderson

SECONDED BY: Neelam Bal

*THAT Council approves the revised Discontinuing Services document for publication, including today's wording changes.*

**CARRIED**

**10.4 Revised College Document Framework**

Julie explained that in compliance with the 5-year regular review cycle of College documents, the Framework for College Publications was last updated in 2012. Upon review, the Practice Issues Subcommittee identified opportunities to streamline for the public and OTs the groups and categories of documents such as *Guide* and *Guidelines*. An updated framework was presented.

MOVED BY: Jennifer Henderson  
SECONDED BY: Heather McFarlane

*THAT Council approves the revised Framework for College Publications.*

**CARRIED**

**10.5 Standard Revisions and Streamlining**

Julie explained the Practice Issues Subcommittee has identified the need to improve and streamline the format of Standards of Practice documents so that information is easily referenced, without redundancies, across multiple documents. This project would encompass the work plan for the Practice Issues Subcommittee for 2021.

MOVED BY: Jennifer Henderson  
SECONDED BY: Michelle Stinson

*THAT Council approves a fulsome review of the Standards of Practice for the purposes of combining, streamlining and reducing redundancies to enhance ease of use.*

**CARRIED**

**11.0 Other Business**

**11.1 Council Meeting Evaluation**

The Chair asked members to complete the electronic meeting evaluation and encouraged everyone to provide recommendations for future improvements.

**11.2 Annual Council Evaluation**

The Chair asked members to complete the electronic Annual Council Evaluation and encouraged everyone to provide recommendations for future improvements.

**11.3 Annual Council Self-Evaluation**

The Chair encouraged members to complete the Annual Council Self-Evaluation.

**12.0 Next Meetings**

- Council Meeting and Officer Elections, Thursday, March 25, 2021, 9:00 a.m. – 4:00 p.m. via video conference.
- Council Meeting, Thursday, June 24, 2021, 9:00 a.m. – 3:30 p.m. Location TBA

**13.0 Adjournment**

There being no further business, the meeting was adjourned at 2:35 p.m.

MOVED BY: Allan Freedman

***THAT** the meeting be adjourned.*

**CARRIED**

DRAFT

### **APPENDIX 1: Land Acknowledgement and Commitment to Stronger Engagement**

*As an important part of our commitment to reconciliation, the College of Occupational Therapists of Ontario recognizes the traditional territories on which we live and work (physically or remotely) every day, across what is now known as Ontario. This includes distinct groups of First Nations Peoples: Algonquin, Mississauga, Ojibway, Cree, Odawa, Potowatomi, Delaware, and the Haudenosaunee – Mohawk, Onondaga, Oneida, Cayuga, Tuscarora, and Seneca.*

*Other Indigenous Nations also have long standing relationships with the land in parts of this province including the Wendat, and the Métis Nation.*

*To meaningfully engage with this community, the College has reviewed the Truth and Reconciliation Commission's (TRC) report. Calls to Action 18-24 addresses the health disparities faced by Indigenous Peoples and how poor health outcomes are linked to the complex histories and ongoing realities of Indigenous peoples in Canada. In particular, we acknowledge how these disparities have been laid bare and magnified by the COVID-19 pandemic. The College and its registrants will work to reduce these health disparities by ensuring that OTs are competent to provide services that the community has a right to and is acceptable to them.*

DRAFT

**APPENDIX 2: Status of Implementation of Decisions of Council**

<b>Council Meeting Date</b>	<b>Decisions</b>	<b>Current Status</b>
January 28, 2021	<b>THAT</b> Council approves the appointment of Paola Azzuolo, Mary Egan, Michelle Stinson and Neelam Bal to the Nominations Committee.	Complete
January 28, 2021	<b>THAT</b> Council approves a fulsome review of the Standards of Practice for the purposes of combining, streamlining and reducing redundancies to enhance ease of use.	Ongoing
January 28, 2021	<b>THAT</b> Council approves the revised Framework for College Publications.	Implementation Pending
January 28, 2021	<b>THAT</b> Council approves the revised Discontinuing Services document for publication, including today's wording changes.	Implementation Pending
January 28, 2021	<b>THAT</b> Council approves that the Guide to the Code of Ethics be retired.	Complete
January 28, 2021	<b>THAT</b> Council approves the implementation of the Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO) recommendation regarding cross-jurisdictional telepractice so that for the purposes of registration, practice occurs where the occupational therapist is located.	Implementation pending
January 28, 2021	<b>THAT</b> Council maintains the same per diem rates and allowable expenses as approved in 2020, and that Council approves today's changes in language for clarity.	Complete
January 28, 2021	<b>THAT</b> Council approves the amended Terms of Reference for the Executive Committee, to commence in April 2021. <b>THAT</b> Council approves the amended Terms of Reference for the restructured Governance Committee, to commence in April 2021. <b>THAT</b> Council approves the new Terms of Reference for the Finance, Audit and Risk Committee, to commence in April 2021.	Complete Implementation in April 2021
January 28, 2021	<b>THAT</b> Council approves the proposed amendments to the College bylaws as presented.	Complete
January 28, 2021	<b>THAT</b> Council approves for implementation, the proposed 2020-2023 Quarterly Performance Report.	Complete
October 29, 2020	<b>THAT</b> Council approves the creation of a Finance, Audit and Risk Committee to commence in April 2021.	Implement April 2021

Council Meeting Date	Decisions	Current Status
October 29, 2020	<b>THAT</b> Council approves the areas of responsibility related to governance (elections, nominations, Council effectiveness, committee appointments and chairs, investigating complaints and conduct of Council and Committee members), previously held by the Executive Committee, be moved to the restructured Governance Committee to commence in April 2021.	Implement April 2021
October 29, 2020	<b>THAT</b> Council approves that the Executive Committee authority be limited to urgent matters in between Council meetings; evaluation of Registrar performance, overseeing the functioning of Council, including setting the Council agenda and planning meetings, to commence in April 2021.	Implement April 2021

DRAFT



## EXECUTIVE COMMITTEE MINUTES

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**Date:** Monday, January 11, 2021 Time: 10:30 a.m. – 1:30 p.m.

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In Attendance:

**MEMBERS:**

Jeannine Girard-Pearlman, *Chair*  
Jennifer Henderson  
Stephanie Schurr  
Peter Shenfield

**STAFF:**

Elinor Larney, *Registrar*  
Julie Entwistle, *Deputy Registrar (7.2, 7.3, 10.2-10.4)*  
Lesley Krempulec, *Practice Consultant (10.3)*  
Nabila Mohammed, *Director of Finance & Corporate Services (8.1, 8.2)*  
Andjelina Stanier, *Executive Assistant, Scribe*

### 1.0 Call to Order

The Chair welcomed everyone and called the meeting to order at 10:33 a.m.

### 2.0 Public Protection Mandate

The Chair reminded members that the purpose of the work of the committee is to protect the public.

### 3.0 Land Acknowledgement and Commitment to Stronger Engagement

The Chair invited members to silently read and reflect on the Land Acknowledgement statement (Appendix 1).

### 4.0 Declaration of Conflict of Interest

The Chair called for any declarations of conflict of interest. None were declared.

### 5.0 Approval of Agenda

The agenda was approved as presented.

MOVED BY: Stephanie Schurr

SECONDED BY: Jennifer Henderson

*THAT the agenda be approved as presented.*

**CARRIED**

### 6.0 Approval of Minutes

#### 6.1 Approval of Draft Executive Minutes from November 26, 2020

The Chair called for edits to the draft minutes of November 26, 2020. None were reported.

MOVED BY: Peter Shenfield

SECONDED BY: Stephanie Schurr

*THAT the Executive Minutes of November 26, 2020 be approved as presented.*

**CARRIED**

## **6.2 Draft Council Minutes – Addition of Table**

Elinor explained that in order to comply with new reporting requirements as outlined in the College Performance Management Framework (CPMF) regarding the transparency of Council decisions, a sample table was added to the draft Council Minutes. Executive agreed this to be an effective method to track the status of Council decisions in a transparent way. Executive further decided as a matter of good practice to review future Council minutes prior to final approval by Council. A motion was made to include future approved Executive Committee minutes in the FYI section of the Council package.

MOVED BY: Stephanie Schurr

SECONDED BY: Jennifer Henderson

*THAT Executive agrees that the decision-making framework table at the end of the Council minutes be approved, effective immediately.*

**CARRIED**

MOVED BY: Peter Shenfield

SECONDED BY: Jennifer Henderson

*THAT Executive agrees to include Executive Committee minutes in all future Council meeting packages, effective immediately.*

**CARRIED**

## **7.0 Registrar's Report**

### **7.1 Registrar's Update**

#### COVID-19 Pandemic

The College is monitoring ministry directives and the potential for another full shutdown. The College has received a small number of complaints regarding inadequate use of personal protective equipment by OTs. A statement on vaccine hesitancy will be added to the website.

#### Annual Insurance Review

One OT has had their license revoked for non-payment of liability insurance by the deadline, despite repeated emails and phone calls by the College.

#### College Performance Measurement Framework (CPMF)

More information is coming to Council in January on this ministry initiative. The College is in the process of determining any outstanding items for which data is required to meet the new reporting requirements. Council final approval will be required, likely at the March meeting.

### Ontario Fairness Commissioner

During a meeting with the new Fairness Commissioner this past week, the College was pleased to receive very positive feedback on compliance related to registration and reporting methods.

### Ontario College of Teachers

It was noted that the College of Teachers has had legislation introduced that would change their governance structure in a similar way to what our College is planning. This is good news to know we continue to be on the right track.

### Occupational Therapists and Telepractice

There is an increasing demand for OTs to be able to practice remotely and as such issues with managing registration have arisen if OTs practice in more than one province. After much discussion, in order to avoid issues with OTs needing to register in multiple-provinces, OT regulators have come to an agreement to change policy such that practice occurs where the therapist is located as opposed to where the patient is located. OTs who practice in more than one jurisdiction will, therefore, if the policy is approved at Council, need to be registered in only the province from where they physically practice and may register in only their home jurisdiction if practicing by telepractice.

### Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO)

- An additional government grant of \$42,000 has been approved to help cover some costs associated with the SEAS move to online assessments.
- CORECOM:
  - Deadline for project completion has been extended to June 2021
  - Final draft version of the competencies will go out for a full national consultation in March. A new section about cultural competence has been added to this version.

## **7.2 Performance Management Report**

Julie presented the new reporting tool developed to replace the Performance Management Report. The *Quarterly Performance Report* aligns with new CMPF reporting requirements. This format combines performance indicators and data with information from quarterly committee reports to Council.

MOVED BY: Stephanie Schurr

SECONDED BY: Peter Shenfield

***THAT Executive recommends to Council that the 2020-2023 Quarterly Performance Report be approved for implementation.***

**CARRIED**

## **7.3 Risk Management Report**

Elinor reported on risk issues and responded to questions. Overall, the level of risk remained the same with the exception of one new risk the College is monitoring which is a reputational risk related the 2021 annual renewal fees and the ongoing requirements of the quality assurance program.

MOVED BY: Peter Shenfield

SECONDED BY: Jennifer Henderson

*THAT Executive receives the Risk Management Report.*

**CARRIED**

## **8.0 Finance**

### **8.1 FY 20/21 Q2 Financial Report**

Nabila presented the Financial Report, Statement of Financial Position and Statement of Operations, and responded to questions.

MOVED BY: Peter Shenfield

SECONDED BY: Jennifer Henderson

*THAT Executive approves the FY 20/21 Financial Report, Statement of Financial Position, and Statement of Operations, as presented.*

**CARRIED**

### **8.2 Honoraria, Allowable Expenses – Policy Review**

Elinor explained that in compliance with the regular annual review of Council policies and guidelines related to Honoraria and Allowable Expenses, no changes are being recommended at this time.

MOVED BY: Jennifer Henderson

SECONDED BY: Stephanie Schurr

*THAT Executive recommends to Council to maintain the same per diem rates and allowable expenses as approved in 2020.*

**CARRIED**

## **9.0 Governance**

### **9.1 Council Officer Nominations Process**

Executive reviewed the process to elect Council officers. Two members who choose to not stand for office will be nominated to the Nominations Committee at the January Council meeting. No process changes are recommended as the Governance Committee will review and update the process at a later date, to align with the governance modernization initiative.

MOVED BY: Stephanie Schurr

SECONDED BY: Peter Shenfield

*THAT Executive approves the 2021 Process for Nominations for Council officers.*

**CARRIED**

### **9.2 Committee Chair Appointment Process**

Elinor reviewed the Committee Chair Appointment Process. No process changes are recommended as the Governance Committee will review and update the process at a later date, to align with the governance modernization initiative.

MOVED BY: Peter Shenfield  
SECONDED BY: Jennifer Henderson

***THAT** Executive approves the current process for the appointment of committee Chairs and committee composition, be implemented by staff.*

**CARRIED**

**10.0 Business Arising**

**10.1 Committee Work Plan**

Executive reviewed and updated the Work Plan.

**10.2 Framework for College Publications**

In compliance with the 5-year regular review of College documents, Julie explained the Framework for College Publications was last updated in 2012. Upon review of the framework, the Practice Issues Subcommittee identified opportunities to clarify for the public and OTs the use of words *Guide* and *Guidelines*. Executive reviewed the revised framework and held a discussion.

MOVED BY: Stephanie Schurr  
SECONDED BY: Peter Shenfield

***THAT** Executive recommends the revised Document Framework be presented to Council for approval.*

**CARRIED**

**10.3 Guide to Discontinuation of Services**

Lesley explained that in compliance with the 5-year regular review cycle of College documents, the *Guide to Discontinuation of Services* was last reviewed in 2014. The Practice Issues Subcommittee recommends changes, including title change, based on feedback gathered from an environmental scan and the Citizen Advisory Group. Additional changes to terminology and formatting have also incorporated.

MOVED BY: Peter Shenfield  
SECONDED BY: Jennifer Henderson

***THAT** Executive recommends that Council approve the revised Guide to Discontinuation of Services for publication.*

**CARRIED**

**10.4 Standard Revisions and Streamlining**

Julie explained the Practice Issues Subcommittee has identified the need to improve and streamline the use of Standards of Practice documents so that information is easily referenced, without redundancies, across multiple documents. This project would encompass the work plan for the Practice Issues Subcommittee for 2021.

MOVED BY: Stephanie Schurr  
SECONDED BY: Jennifer Henderson

*THAT Executive recommends that Council approve that Practice Issues Subcommittee embarks on a fulsome review of the Standards of Practice for the purposes of combining, streamlining and reducing redundancies to enhance ease of use.*

**CARRIED**

**10.5 Renaming of Practice Issues Subcommittee**

Julie explained the Practice Issues Subcommittee has identified the need for a name change to better reflect the work of the committee to the public. Executive held a discussion on the proposed name.

MOVED BY: Peter Shenfield

SECONDED BY: Jennifer Henderson

*THAT Executive approves the name Practice Issues Subcommittee be renamed to Practice Matters Committee.*

**MOTION WITHDRAWN**

**10.6 Annual Council Meeting Evaluation**

Elinor explained that it is the responsibility of the Executive to approve the Annual Council Evaluation Process. She explained that only minor revisions to the evaluation form are recommended at this time, given all Council evaluations will be reviewed by the Governance Committee at a later date, to align with the governance modernization initiative.

MOVED BY: Peter Shenfield

SECONDED BY: Jennifer Henderson

*THAT Executive approves the changes to the Council Annual Evaluation, to be implemented January 2021.*

**CARRIED**

**10.7 October 2020 Council Meeting Evaluation Feedback**

Executive reviewed the results. Overall, feedback was very positive with some comments about poor connectivity with GoTo Meeting. The next Council meeting will be held over Zoom.

**10.8 Draft Council Agenda – January 28, 2021**

Executive reviewed and finalized the January Council agenda.

**11.0 Next Meeting (video conference)**

- Executive Committee Meeting: Thursday, March 4, 2021, 10:30 a.m. – 1:30 p.m.

**12.0 Adjournment**

The meeting adjourned at the call of the Chair at 12:00 p.m.

## **APPENDIX 1: Land Acknowledgement and Commitment to Stronger Engagement**

*As an important part of our commitment to reconciliation, the College of Occupational Therapists of Ontario recognizes the traditional territories on which we live and work (physically or remotely) every day, across what is now known as Ontario. This includes distinct groups of First Nations Peoples: Algonquin, Mississauga, Ojibway, Cree, Odawa, Potawatomi, Delaware, and the Haudenosaunee – Mohawk, Onondaga, Oneida, Cayuga, Tuscarora, and Seneca.*

*Other Indigenous Nations also have long standing relationships with the land in parts of this province including the Wendat, and the Métis Nation.*

*To meaningfully engage with this community, the College has reviewed the Truth and Reconciliation Commission's (TRC) report. Calls to Action 18-24 addresses the health disparities faced by Indigenous Peoples and how poor health outcomes are linked to the complex histories and ongoing realities of Indigenous peoples in Canada. In particular, we acknowledge how these disparities have been laid bare and magnified by the COVID-19 pandemic. The College and its registrants will work to reduce these health disparities by ensuring that OTs are competent to provide services that the community has a right to and is acceptable to them.*



## GOVERNANCE COMMITTEE MINUTES

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**DATE:** Thursday, January 14, 2021 **FROM:** 9:00 a.m. – 12:00 p.m. via video conference

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In Attendance:

**MEMBERS:**

Peter Shenfield, *Chair*  
Jennifer Henderson  
Vincent Samuel  
Stephanie Schurr  
Teri Shackleton

**STAFF:**

Elinor Larney, *Registrar*  
Stamatis Kefalianos, *Manager, Regulatory Affairs*  
Andjelina Stanier, *Executive Assistant, Scribe*

**REGRETS:**

Jeannine Girard-Pearlman

**1.0 Call to Order**

The Chair welcomed everyone and called the meeting to order at 9:04 a.m.

**2.0 Public Protection Mandate**

The Chair reminded members that the purpose of the work of the committee is to protect the public.

**3.0 Land Acknowledgement Statement**

The Chair invited members to silently read and reflect on the Land Acknowledgement statement.

**4.0 Declaration of Conflict of Interest**

The Chair asked for any declaration of conflict of interest. None was declared.

**5.0 Approval of Agenda**

The chair asked for changes to the agenda. None were reported.

MOVED BY: Stephanie Schurr

SECONDED BY: Teri Shackleton

*THAT the agenda be approved as presented.*

**CARRIED**

**6.0 Approval of Minutes**

The Chair asked for changes to the draft minutes of December 3, 2020. None were reported. The committee agreed to bring forward future Governance Committee minutes to be included in the Council consent agenda for approval.

MOVED BY: Vincent Samuel  
SECONDED BY: Stephanie Schurr

*THAT the Governance Committee Minutes of December 3, 2020 be approved as presented.*

**CARRIED**

#### **7.0 Terms of Reference – Finance, Audit and Risk Committee**

Stamatis reviewed the draft Terms of Reference for the anticipated Finance, Audit and Risk Committee. He explained that the draft was reviewed by legal counsel and the Director of Finance and Corporate Services and feedback was incorporated into the document. The committee held a discussion and additional recommendations were made, including the removal of the 3-year term limit. By extension, it was agreed to also remove term limits from the Governance and Executive committees Terms of Reference. This document will require final approval by Council.

*THAT the Governance Committee recommends that the terms of reference, including today's changes, for the new Finance, Audit and Risk Committee, to commence in April 2021, be forwarded to Council for approval.*

MOVED BY: Teri Shackleton  
SECONDED BY: Vincent Samuel

**CARRIED**

#### **8.0 Bylaws Consultation Review**

Stamatis reviewed feedback related to the Bylaws consultation, which closed earlier this month. The committee reviewed the feedback and proposed bylaw amendments and made additional recommendations. The committee agreed to bring forward to Council a discussion regarding the cooling-off period.

*THAT the Governance Committee recommends that the proposed amendments to the bylaws, including today's changes, be forwarded to Council for final approval.*

MOVED BY: Stephanie Schurr  
SECONDED BY: Teri Shackleton

**CARRIED**

#### **9.0 Proposed Board Competency Framework**

Stamatis explained that based on a review of best practices at other regulatory colleges, a preliminary list of attributes and competencies has been determined. The list was approved with an additional recommendation to include consensus building into the category Stakeholder Relations/Communication.

*THAT the Governance Committee recommends the approval of the Competency Framework, including today's changes, and that it be forwarded to Council for approval at their March 2021 meeting.*

MOVED BY: Stephanie Schurr

SECONDED BY: Teri Shackleton

**CARRIED**

**10.0 Governance Project Plan**

Stamatis updated the committee on the status of current and future projects.

**11.0 Next Meeting**

The next meeting was tentatively confirmed for Thursday, March 11, 2021 from 1:00 – 4:00 p.m. via video conference.

**12.0 Adjournment**

The meeting adjourned at the call of the Chair at 12:00 p.m.

**APPENDIX 1: Land Acknowledgement and Commitment to Stronger Engagement**

*As an important part of our commitment to reconciliation, the College of Occupational Therapists of Ontario recognizes the traditional territories on which we live and work (physically or remotely) every day, across what is now known as Ontario. This includes distinct groups of First Nations Peoples: Algonquin, Mississauga, Ojibway, Cree, Odawa, Potawatomi, Delaware, and the Haudenosaunee – Mohawk, Onondaga, Oneida, Cayuga, Tuscarora, and Seneca.*

*Other Indigenous Nations also have long standing relationships with the land in parts of this province including the Wendat, and the Métis Nation.*

*To meaningfully engage with this community, the College has reviewed the Truth and Reconciliation Commission's (TRC) report. Calls to Action 18-24 addresses the health disparities faced by Indigenous Peoples and how poor health outcomes are linked to the complex histories and ongoing realities of Indigenous peoples in Canada. In particular, we acknowledge how these disparities have been laid bare and magnified by the COVID-19 pandemic. The College and its registrants will work to reduce these health disparities by ensuring that OTs are competent to provide services that the community has a right to and is acceptable to them.*

**APPENDIX 2: Status of Implementation of Committee Decisions**

Meeting Date	Decisions	Current Status
January 14, 2021	<b>THAT</b> the Governance Committee recommends that the terms of reference, including today's changes, for the new Finance, Audit and Risk Committee, to commence in April 2021, be forwarded to Council for approval.	Complete
January 14, 2021	<b>THAT</b> the Governance Committee recommends that the proposed amendments to the bylaws, including today's changes, be forwarded to Council for final approval.	Complete
January 14, 2021	<b>THAT</b> the Governance Committee recommends the approval of the Competency Framework, including today's changes, and that it be forwarded to Council for approval at their March 2021 meeting.	Pending

<b>Meeting Date</b>	<b>Action Items</b>	<b>Current Status</b>
January 14, 2021	Refine the competency definition of Stakeholder Relations and Communications.	Ongoing – tabled for March 11, 2021 meeting



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Michelle Stinson, Chair, Nominations Committee  
**Subject:** 2021 Officer Nominations

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### **Recommendation:**

For information purposes only.

### **Tasks completed:**

The Nominations Committee, comprised of Michelle Stinson, Paola Azzuolo, Neelam Bal and Mary Egan, met by video conference on two occasions to review and conduct the process for the nomination of officers. Michelle Stinson was selected to be the Chair. A call for nominations was distributed and responses were received. Potential candidates were contacted to confirm their willingness to stand for positions and a candidate statement was requested from each individual. The final slate and statements of candidacy will be made available to Council members by email prior to the commencement of the election on March 25.

### **Key Priorities:**

- Identify and finalize the selection of officers.
- Provide Council members with slate and statements of candidacy in advance of the Council Elections meeting.

### **Items for Decision / Discussion:**

1. Election of Officers
2. Destruction of Ballots



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Nabila Mohammed, Director, Finance and Corporate Services  
**Subject:** June 1, 2020 to January 31, 2021 Financial Report

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### **Recommendation:**

*THAT Council receives the January 31, 2021 Financial Report, Statement of Financial Position, and Statement of Operations, as presented.*

This Financial Report contains three sections:

1. Financial Statement Highlights
2. Summary of statutory remittances and filings
3. Financial Statements:
  - **Statement of Financial Position** as at January 31, 2021
  - **Statement of Operations** for the period June 1, 2020, to January 31, 2021

### **Highlights of Statement of Financial Position**

*(Please refer to the attached Statement of Financial Position as at January 31, 2021)*

Items to note with respect to the changes to assets includes:

- The balance in the investments will not align with the monthly BMO Investment Reports for interim financial reporting as standard audit adjustments (i.e. to recognize accrued interest and to reclassify certain items between cash and investments) are recorded at fiscal year-end. Variances to prior year reflect changes in the investment portfolio, including investments purchased in June 2019 and others maturing throughout the year.
- Property and equipment have increased year-over-year due to the renovation and purchase of a new server.

Significant items to make a note of with respect to liabilities for the period include:

- Deferred registration fees consist of funds that are collected in one fiscal year but recognized as revenue in the following fiscal year. These funds are applied evenly at a quarterly rate of approximately \$149,500 per quarter. The next allocation will be at the end of February 2021. The significantly lower balance in deferred registration fees as compared to the prior year is an impact from extending the annual renewal deadline. Most renewal fees were received in Q1 and recognized as revenue immediately instead of as deferred registration fees.

The 'Net Assets' section of the Statement of Financial Position reflects the following:

- An increase in the reserve funds and a decrease in unrestricted amounts due to the allocation to reserve approved by Council in March 2020.

- An increase in the amount invested in fixed assets due to the renovation costs and server purchase.
- An increase in the excess of revenues over expenses for the period as compared to last year. This is a result of the extension of the annual renewal deadline. Instead of smoothing the recognition of deferred registration fees over the fiscal year, renewal fees collected after May 31, 2020 have been recognized as income immediately. As the fiscal year progresses, College expenditures will draw down on this amount.

### **Highlights of Statement of Operations**

*(Please refer to the attached Statement of Operations for the period of June 1, 2020, to January 31, 2021)*

The excess of revenues over expenses for the period was \$1,501,628. The budget had projected a surplus of \$1,411,431 for the same period of time. The results are \$90,197 favourable to budget.

Major items making up this variance to the budget are noted below:

- Total revenues are \$185,470 unfavourable to budget. This variance is expected to be reduced through future allocations of deferred revenue to the end of May 31, 2021.
- Program expenses are favourable to budget by \$141,309, mostly due to the reversal of the investigations and resolutions year-end accrual. Expenses related to the ongoing I&R hearing are being tracked in the Hearings and Independent Medical Exam fund. As of the end of January 31, 2021, the expenditures in this fund totaled \$214,664. At the end of the fiscal year, these costs will be allocated back to the program costs.
- Communications is favourable to budget by \$36,379 due to changing organizational priorities, and operational needs as the impacts of COVID are still being managed.
- Council is favourable to budget by \$16,965 due to the ongoing pandemic. The budget considered a decreased level of costs associated with on-site meetings; however, the College has continued to operate virtually. As a result, additional cost savings have been realized than budgeted for.
- Other office operations are favourable to budget by \$50,546. This is largely due to the purchasing of more affordable furniture modifications to enable physical distancing than budgeted. Additionally, the College was still working remotely resulting in further savings being realized.
- Operational initiatives are favourable to budget by \$23,054. This is mainly due to projects being under budget through to the end of January 31, 2021 and new projects being prioritized.
  - The governance project is under budget due to completing more work in-house than planned. Expenses are expected to increase; however, it is expected this project will be underspent overall.
  - The communications videos project is under budget to date due to competing organizational priorities. Preliminary discussions on this project have commenced.
  - The enterprise systems project is under budget to date due to being more efficient with resources. It is expected this project will be under budget by year end.

- The College was required to upgrade our existing information system to support critical security updates. As of the end of January 31, 2021 this unbudgeted project incurred \$10,800. Final invoices are expected in February.
- The College has started the process of an organizational review. It has been several years since this was last done. Since there are several large-scale projects in progress, including the QA continuing competency project, the enterprise systems project, and the governance project, it was determined that this would be an ideal time to undertake a review to ensure operations are as efficient as possible. To date, this project has incurred \$16,585 of costs. The organizational review is expected to be complete by the end of the fiscal year.
- With the CORECOM project in its final stages, the College has started planning on how it will roll out the new competencies to occupational therapists in Ontario. As a result, work on this project has commenced and to the end of January, \$8,595 has been spent on developing the plan.
- Professional fees are favourable to budget by \$20,983. This is mostly due to College resources becoming more efficient and continued focused on managing the pandemic. As a result, there has been a reduction in operational need for these resources through to the end of January.
- Depreciation is favourable to budget by \$11,542 as there was a revaluation of prior years' leasehold improvements due to the lease extension. It is expected that this will remain under budget through to the end of the fiscal year.
- Information technology is unfavourable to budget by \$8,497. This is due to the purchase of minor equipment to support the organizational network.

### **Highlights of Statement of Reserves**

*(Please refer to the attached Statement of Reserves as of January 31, 2021)*

In addition to expenses incurred during the regular course of operations, certain expenditures are made against the designated reserve funds in accordance with approved Council Guidelines for Establishing and Maintaining Reserve Funds.

Through to the end of January, the follow expenses have been incurred:

- \$214,664 for hearings, which is reflected in the Hearings and Independent Medical Exam Fund.
- \$33,297 has been allocated to the 'invested in fixed assets' amount and is reflective of the net additions (due to the renovation and purchase of a new server) and accumulated amortization.

**Statutory Remittances and Filings**

The College is required to remit various taxes and filings to the government.

Description	Frequency/Timing	Status
Remittance of payroll withholding taxes (CPP, EI, Income Tax)	Bi-weekly	Up to date
Remittance of CPP on Council per diems	Monthly	Up to date
Remittance of Employer Health Tax	In 2021, the exemption limit of \$1,000,000 was made permanent. This means that payroll over \$1,000,000 will have EHT applied at 1.95% during the calendar year.	Up to date
Filing of Harmonized Sales Tax return (Quarterly)	Quarterly	Up to date, HST return filed up to November 30, 2020.  Next filing due March 31, 2021 for the period December 1, 2020 to February 28, 2021.
Filing of T4, T4A returns	Annually based on calendar year. Due last day of February.	Up to date, filed February 2021 for the year ended December 31, 2020.
Filing of Corporate Income Tax Return (T2)	Annually based on fiscal year. Due November 30, 2021.	Up to date
Filing of Non-Profit (NPO) Information Return (T1044)	Annually based on fiscal year. Due November 30, 2021.	Up to date

**College of Occupational Therapists of Ontario**  
**STATEMENT OF FINANCIAL POSITION**  
As at January 31, 2021

	01/31/21	01/31/20
	\$	\$
<b>ASSETS</b>		
Current assets		
Cash	2,103,028	1,443,350
Accounts receivable and prepaid expenses	30,064	34,123
Total current assets	2,133,093	1,477,474
Investments	3,403,321	4,191,334
Property and equipment, net of accumulated amortization	272,120	91,262
<b>TOTAL ASSETS</b>	<b>\$ 5,808,534</b>	<b>\$ 5,760,069</b>
<b>LIABILITIES</b>		
Current Liabilities		
Accounts payable and accrued liabilities	272,270	174,628
HST payable	(24,579)	(36,071)
Deferred registration fees	298,856	1,325,818
Total current liabilities	546,548	1,464,376
Total liabilities	546,548	1,464,376
<b>NET ASSETS</b>		
Reserve funds	3,045,336	2,883,000
Invested in fixed assets	272,120	91,262
Unrestricted	442,903	961,250
Excess of revenues over expenses for the period	1,501,628	360,182
Total net assets	5,261,986	4,295,694
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ 5,808,534</b>	<b>\$ 5,760,069</b>

**College of Occupational Therapists of Ontario**  
**STATEMENT OF OPERATIONS**

June 1, 2020 through January 31, 2021

	8 Months Actuals ended Jan/21 \$	8 Months Budget FY20/21 \$	Variance %
<b>REVENUES</b>			
Registration fees	3,956,210	4,101,790	-4%
Application fees	68,640	73,000	-6%
Professional corporation fees	10,764	12,000	-10%
Interest & other income	6,559	40,854	-84%
<b>TOTAL REVENUES</b>	<u>4,042,174</u>	<u>4,227,644</u>	<u>-4%</u>
<b>EXPENSES</b>			
Salaries and benefits	1,855,046	1,835,633	1%
Programs	16,911	158,220	-89%
Communications	48,371	84,750	-43%
Council	59,805	76,770	-22%
Rent	226,354	229,152	-1%
Information technology	91,770	83,273	10%
Other office operations	106,769	157,315	-32%
Operational initiatives	82,446	105,500	-22%
Professional fees	36,017	57,000	-37%
Depreciation	17,058	28,600	-40%
<b>TOTAL EXPENSES</b>	<u>2,540,546</u>	<u>2,816,213</u>	<u>-10%</u>
<b>EXCESS OF REVENUES OVER EXPENSES FOR THE PERIOD</b>	<u>1,501,628</u>	<u>1,411,431</u>	

**STATEMENT OF RESERVE FUNDS**

	Opening Balance Jun 1, 2020 \$	Spent to Date/Change \$	Closing Balance Jan 31, 2021 \$
Hearings and independent medical exam fund	\$ 400,000	(214,664)	185,336
Sexual abuse therapy fund	25,000	-	25,000
Contingency fund	1,600,000	-	1,600,000
Premises fund	800,000	-	800,000
Enterprise wide systems	435,000	-	435,000
Invested in fixed assets	238,823	33,297	272,120
Unrestricted	476,200	(33,297)	442,903
Excess of revenues over expenses for the period*		1,501,628	1,501,628
<b>TOTAL RESERVES</b>	<u>3,975,023</u>	<u>1,286,963</u>	<u>5,261,986</u>

\* The excess of revenues over expenses for the period is higher than usual due to the extension of the annual renewal deadline. Instead of smoothing the recognition of deferred registration fees over the fiscal year, renewal fees collected have been recognized in income immediately. As the fiscal year progress, College expenditures will draw down on this amount.



## COUNCIL BRIEFING NOTE

**Date:** March 25, 2021  
**To:** Council  
**From:** Nabila Mohammed, Director, Finance and Corporate Services  
**Subject:** Annual Investment Portfolio as at December 31, 2020

Page 1 of 3

### Background:

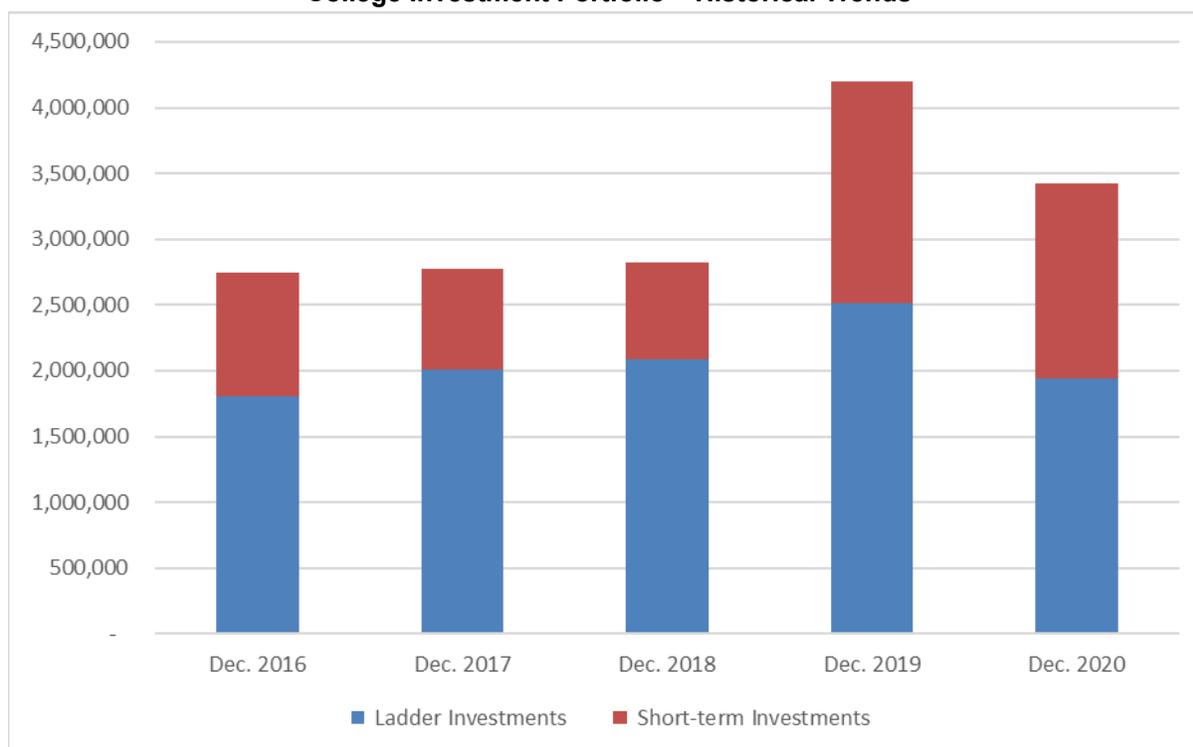
This report summarizes the College's investment portfolio as at December 31, 2020 and is based on the BMO Nesbitt Burns statement as of that date. There are two categories of investments:

- Short-term investments (which include cash) and
- Longer term discounted notes (also referred to as "ladder" investments) which were purchased at a discount and will be held for up to ten years in accordance with Governance Policy RL7 – Investments.

Description	Market Value \$	Maturity Date
<b>Short-term Investments</b>		
Cash and High Interest Savings	544,252	Investments are considered short-term if they are cashable or are due to mature within 12 months.
HSBC Bank of CDA GIC	100,000	
Bank of Montreal Mortgage GIC	100,000	
Homequity Bank GIC	100,000	
Laurentian Bank GIC	100,000	
Manulife Bank of CDA GIC	100,000	
CPN Province of Nova Scotia	139,499	
Haventree Bank GIC	100,000	
Peoples Trust GIC	100,000	
RFA Bank of Canada GIC	100,000	
<b>Total Short-term Investments</b>	<b>1,483,751</b>	
<b>Long-term (Ladder) Investments</b>		
Royal Bank of CDA GIC	100,000	Jan-22
National Bank of CDA GIC	100,000	Feb-22
CPN Province of Ontario	64,712	Jun-22
Canadian Tire Bank GIC	100,000	Jun-22
Canadian Western Bank GIC	100,000	Jun-22
CPN Province of Ontario	170,712	Dec-22
Concentra Bank GIC	97,150	Jan-23
CPN Province of British Columbia	101,347	May-23
CPN Province of Ontario	123,644	Jun-23
Home Trust Company GIC	100,000	Dec-23
BMO Trust Company GIC	100,000	Jan-23

Equitable Bank GIC	40,000	Jan-24
Montreal TR CO of CDA GIC	100,000	Jan-24
Ville De Coaticook Bond	189,605	Feb-24
CPN Province of Ontario	289,349	Jun-25
City of Montreal	109,994	Sep-25
Province of New Brunswick	54,677	Aug-26
<b>Total Long-term Investments</b>	<b>1,941,191</b>	
<b>Total Market Value of Investments</b>	<b>3,424,941</b>	

College Investment Portfolio – Historical Trends



	Dec 2016	Dec 2017	Dec 2018	Dec 2019	Dec 2020
<b>Ladder Investments</b>	1,801,093	2,006,803	2,089,879	2,512,785	1,941,191
<b>Short-term Investments</b>	945,141	764,739	733,305	1,687,267	1,483,751

While the total value of investments has grown year over year, the relative proportion of short-term versus ladder investments will vary as the portfolio is fine-tuned to take advantage of the interest rate environment.

**Discussion:**

The College's main principle for investments is the preservation of capital. As such, it adheres to investments that are covered by the Canada Deposit Insurance Corp. (CDIC). The CDIC allows for deposit insurance coverage up to \$100,000 for a list of specified accounts and investments.

The College's current investment portfolio is maintained at BMO Nesbitt Burns; however, this provider is running out of CDIC insured options for College investment. As a result, the College has accumulated investments that have matured in its high interest savings account, which will be reinvested once options become available. As an additional remedy to this challenge, the College is in the process of opening an account with RBC Dominion Securities to provide additional options for investment. This will help to better support future management of the College's investments.



## Quarterly Performance Report

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The purpose of this report is to provide quarterly information on program and committee activities that relate to the 2020-2023 identified strategic priorities. The content relates to Council's oversight responsibilities which include strategy, finance, risk, the work of the statutory committees, and compliance with the Regulated Health Professions Act (RHPA) timelines. Some metrics have been included for information purposes, and any quarter-over-quarter anomalies will be explained. This report for the 2020-2023 strategic plan will replace the previous Priority Performance Report and combines that prior document and the Committee Reports to Council. Any decisions indicated here will have been made by Council at the last meeting, and new decisions will be brought forward separately through a briefing note.

Importantly, this report and its contents are in the public interest as Council oversight of the strategic plan, committees, finance, risk and RHPA compliance are vital components of ensuring the public has access to safe, ethical, and quality care from occupational therapists.

### **Legend:**

Health Professions Appeal and Review Board (HPARB).

Response Compliance: Percent of decision letters sent to registrants on time as per RHPA requirements.

Average Case Time: Average time (days) for closed cases from when the case is opened to the decision letter sent.

### **For Quality Assurance (QA):**

Self Assessment (SA): Completed by registrants every 2 Years usually due October 31.

Professional Development Plan (PDP): Completed by registrants annually, usually due May 31.

Prescribed Regulatory Education Program (PREP): Completed by registrants annually, usually due October 31.

Peer and Practice Assessment (PPA): OT competency assessment with peer assessor when OT is selected or referred.

Specified Continuing Education and Remediation Program (SCERP): One type of decision / outcome of the QA Committee.

**Executive**

**Chair:** Jeannine Girard-Pearlman

**Strategic Priorities:** Public Confidence, Quality Practice

Workplan 2020/2021	Possible RHPA and or Governance model changes.
	Council Orientation, Education, and Policy Review
	Review of Finances and Oversight of Risk Management and Registrar
	2021 Elections of Council Members
	Essential Competencies for Occupational Therapists in Canada Redevelopment (CORECOM)
	Exam and Accreditation (high level oversight monitoring)

Q1	<b>Committee Activities:</b> Two meetings: 1) June 3, 2020 to review priority performance report, quarterly finances, 20/21 proposed budget, annual risk program, audit process, annual registrar evaluation process, revised <i>Standards for Acupuncture</i> for publication, reappointment of two non-Council members, revised Terms of Reference for Practice Issues Subcommittee and Executive, revised statutory committee appointments. 2) August 11, 2020 to discuss fee petition. Conducted annual registrar performance review, oversight of 2020 special election in districts 1 & 2 (Q1 & Q2).
	<b>Decisions Not Requiring Council Approval:</b> Risk management report, quarterly finances, statutory committee appointments.
	<b>Decisions Brought to Council for Approval:</b> 20/21 proposed budget, revised Terms of Reference for Executive and Practice Issues, reappointments of non-Council members, revised <i>Standards for Acupuncture</i> .

Q2	<b>Committee Activities:</b> Three meetings: 1) September 21, 2020 to review 19/20 audit findings and discuss performance of auditor. 2) October 8, 2020 to review priority performance report, risk report, quarterly finances and 5-year financial forecast, College strategic response to COVID-19, FY19/20 employee merit adjustments, reviewed request to reimburse internet costs for Council/Non-Council members, governance policy update process, statutory committee appointments, 2020 Annual Report, revised <i>Standards for Assessments</i> for publication, College Performance Management Framework (CPMF) implications and new process for reporting, October Council meeting feedback. 3) November 26, 2020 to discuss changes to the statutory committee composition, draft quarterly performance report for implementation.
	<b>Decisions Not Requiring Council Approval:</b> quarterly finances, reimbursement of internet costs, governance policy update process, statutory committee appointments, CPMF new process for reporting, changes to statutory committee composition.
	<b>Decisions Brought to Council for Approval:</b> 2020 Annual Report, revised <i>Standards for Assessments</i> .

	<p><b>Committee Activities:</b> One meeting: <u>January 11, 2021</u> to review/approve: risk report, quarterly finances, new quarterly performance report, two governance policies (Honoraria and Allowable Expense), processes for officer nominations and appointment of committee chairs, revised <i>Framework for College Publications</i> and <i>Guide to Discontinuation of Service</i>. Discuss plan by the Practice Issues Subcommittee for general revisions and streamlining of standards and committee name change, review revisions to the Annual Council Evaluation and results from the October 29, 2020 Council meeting evaluation and finalize the January Council agenda.</p>
Q3	<p><b>Decisions Not Requiring Council Approval:</b> Quarterly finances, risk report, officer nominations process, process and recommendation for committee chairs, Annual Council Evaluation, registrar review process.</p>
	<p><b>Decisions Brought to Council for Approval:</b> New Quarterly Performance Report format (replaces the Performance Management Report) and approval of its content, Honoraria and Allowable Expenses policies, revised <i>Framework for College Publications</i>, revised <i>Discontinuing Service</i>, and general revisions and streamlining of standards project.</p>

**Governance**

**Chair:** Peter Shenfield

**Strategic Priorities:** Public Confidence, System Impact

Workplan 2020/2021	Revise and create terms of references for all statutory and non-statutory committees
	Make bylaw changes to support governance modernization
	Develop Council competencies
	Consolidate and update Code of Conduct

Q1	<b>Committee Activities:</b> Teleconference on June 2, 2020. New terms of reference were presented. A new format was introduced, and similar revisions were made to all statutory and non-statutory committees' terms of reference.
	<b>Decisions Made by Council:</b> Approved the new terms of reference for the Governance Committee.

Q2	<b>Committee Activities:</b> Video conference on September 23, 2020. Reviewed future role of Executive Committee and discussed that responsibilities of Executive related to finance and audit will be delegated to the new Finance, Audit and Risk Committee. Restructuring of other roles of the Executive and Governance committees were also recommended, all to commence in April 2021. Finalized proposed bylaw amendments and rationale that are in line with College's ongoing governance modernization project. Discussed some recent governance reports from British Columbia and Alberta. Governance Training for RHPA Colleges was offered on November 23 and 30, 2020 for interested committee members.
	<b>Decisions Made by Council:</b> Approval of the Committee structure changes. The proposed bylaw amendments to circulate to stakeholders for public consultation for 60-days.

Q3	<b>Committee Activities:</b> Two meetings: <u>December 3, 2020</u> : Finalized the draft terms of reference for the restructured Executive and Governance committees and new Finance, Audit and Risk Committee. Provided initial feedback on the development of the College's competency framework for Council. <u>January 14, 2021</u> : Following legal review, reviewed the draft terms of reference for the anticipated Finance, Audit and Risk Committee. Reviewed feedback related to the Bylaws consultation and proposed bylaw amendments and made additional recommendations. Based on a review of best practices at other regulatory colleges, preliminary list of attributes and competencies was determined.
	<b>Decisions Made by Council:</b> Approval of the revised terms of reference for the Executive and Governance committees and the new Finance, Audit and Risk Committee. Approval of the amendments to the College bylaws.

**Finance, Audit and Risk**

**Chair:** TBC April 2021

**Strategic Priorities:** Public Confidence, System Impact

Workplan 2020/2021	Committee to commence in April 2021

Q4	<b>Committee Activities:</b>
	<b>Finance Report:</b>
	<b>Risk Report:</b>
	<b>Decisions Made by Council:</b>

## Registration

**Chair:** Vincent Samuel

**Strategic Priorities:** Public Confidence, Qualified Registrants

Workplan 2020/2021	Registration Committee Policy Review for clear language and design.
	Refresher Program review for future updating.
	Vulnerable sector check for all registrants' project roll-out.

Q1	6265 Registrants		Meetings	Cases	Avg Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Resigned						
	75	255	1	3	74 days	2 Issued Certificates 1 Refused Certificate 1 Additional Training	100% (3/3)	0
<b>Commentary:</b> Resignation numbers are higher in the first quarter due to the extension of the annual renewal deadline.								
<b>Committee Activities:</b> In addition to case reviews, also updated 4 registration policies in clear language and design.								
<b>Decisions Made by Council:</b> N/A								

Q2	6480 Registrants		Meetings	Cases	Avg Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Resigned						
	267	60	2	2	62 days	1 Additional Training 1 Recommendation to Registrar	100% (2/2)	0
<b>Commentary:</b> Typical increase in new registrants during Q2 as new graduates of OT programs apply.								
<b>Committee Activities:</b> In addition to case reviews, also updated 2 registration policies in clear language and design. Approval of the proposed plan that all registrants registered prior to April 1, 2017 submit a valid vulnerable sector check (2-year project).								
<b>Decisions Made by Council:</b> N/A								

Q3	6572 Registrants		Meetings	Cases	Avg Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Resigned						
	104	17	1	0	N/A	N/A	N/A	0
<b>Commentary:</b> There were no registrant or applicant cases that were referred to the Registration Committee in Q3.								

	<p><b>Committee Activities:</b> The Committee approved the implementation of the Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO) recommendation regarding cross-jurisdiction telepractice, so that, for the purposes of registration, practice occurs where the occupational therapist is located. This policy will take effect June 2021.</p>
	<p><b>Decisions Made by Council:</b> Approved the ACOTRO recommendation regarding cross-jurisdiction telepractice.</p>

### Inquiries, Complaints and Reports Committee (ICRC)

**Chair:** Heather McFarlane

**Strategic Priorities:** Public Confidence, Quality Practice

Workplan 2020/2021	Implement all 18 recommendations arising from the external audit of the ICRC (2020) by June 2021.
	Continue to reduce case completion times to align with the implementation of updated benchmarks.
	Develop and launch an ICRC Educational Course Directory for remediation by June 2021.
	Develop and launch a complaints feedback process by January 2021.

Q1	Cases			Meetings Held	Response Compliance	HPARB Appeals
	Type	New	Resolved			
	Registrar Reports	3	3	377 days	Panel A = 1 Panel B = 2 All ICRC = 1	14 days: 100% 150 days: 100%
	Registrar Administrative Action	1	1	N/A		
	Complaints	4	4	194 days		
Case Outcomes						
<b>Registrar:</b> 1 Complaint Withdrawal, 1 Take No Action						
<b>ICRC:</b> 4 Take No Action, 1 Advice/Guidance, 1 Health Undertaking						
<b>Commentary:</b> Initially while there was a decrease in complaints and reports received in Q3 and Q4 of the last fiscal year, these returned to typical numbers in Q1 of this fiscal year.						
<b>Committee Activities:</b> Engaged in orientation and training to look at the role and jurisdiction of the committee, the legislative framework within which it operates, and to get a better understanding of how the Human Rights Code applies to its work.						
<b>Decisions Made by Council:</b> Review and approval of the ICRC's revised Terms of Reference.						

	Cases			Meetings Held	Response Compliance	HPARB Appeals
	Type	New	Resolved			
	Registrar Reports	1	8	401 days	Panel A = 1 Panel B = 0 All ICRC = 2	14 days: 100% 150 days: 100%
	Registrar Administrative Action	1	4	N/A		
	Complaints	7	4	212 days		
Case Outcomes						

Q2	<p><b>Registrar:</b> 1 Complaint Withdrawal, 1 Intake Incomplete, 1 Health Undertaking, 2 Take No Action, 1 Registration Referral.  <b>ICRC:</b> 3 Advice/Guidance, 1 Undertaking, 1 Referral to Discipline, 2 Remedial Agreement, 2 Take No Action, 1 Remedial Agreement and Health Undertaking.</p>
	<p><b>Commentary:</b> The first pandemic-related complaints were received in this quarter. Further, the College was put on notice as a named party in an appeal filed respecting a HPARB decision which upheld a decision of the ICRC. College staff wrote to the appellant advising him that no right of appeal exists, and they will need to file for a judicial review. An application was made to have this matter dismissed against the College given the College is improperly named. The courts decision on this is pending.</p>
	<p><b>Committee Activities:</b> The external audit of ICRC processes and procedures was reviewed and the implementation of all 18 recommendations were approved. The Committee Effectiveness Survey was completed. The candidate results for the appointment of 2 new Non-Council Committee members were proposed for Council. The efficiency of document sharing for electronic meeting packages was also discussed.</p>
	<p><b>Decisions Made by Council:</b> The approval for the appointment of two professional, Non-Council Committee members.</p>

Q3	Cases			Meetings Held	Response Compliance	HPARB Appeals
	Type	New	Resolved			
	Registrar Reports	5	10	488 days	Panel A = 1 Panel B = 1 All ICRC = 1	14 days: 100% 150 days: 100%
	Registrar Administrative Action	4	5	N/A		
	Complaints	10	2	218 days		
<b>Case Outcomes</b>						
<p><b>Registrar:</b> 4 Closed Pending Reregistration, 1 Educational letter  <b>ICRC:</b> 7 Take No Action, 3 Remedial Agreement, 1 Specified Continuing Education or Remedial Program, 1 Undertaking.</p>						
<p><b>Commentary:</b> The Ontario Superior Court of Justice’s decision to release the College from an action it has been improperly named in remains outstanding. The number of cases opened in Q3 increased when compared to the previous two quarters, but overall case numbers are consistent with pre-pandemic data.</p>						

	<p><b>Committee Activities:</b> Received refresher training from Julie Maciura, partner with Steinecke Maciura LeBlanc, on how to write and review reasons for a decision, the legal test to make a referral to the Discipline Committee, when to refer a matter to another panel of the ICRC for health inquiries and how to avoid making assumptions not supported by the information available in the record of investigation. Received an update on I&amp;R staff's implementation of revised case completion time benchmarks for cases opened on or after December 1, 2020. Approved a process for obtaining feedback on the College's complaints process from complainants and registrants and directed I&amp;R staff to immediately implement. Reviewed and discussed the sections of the College Performance Measurement Framework relevant to the ICRC processes. Received an update that I&amp;R staff have implemented 92% of the recommendations made in the external audit report respecting the ICRC's processes and procedures. Decided to discontinue the use of remedial agreements as a low-risk outcome effective January 1, 2021 and introduced 1:1 training with the College's practice consultants as an educational option available for undertakings and SCERPs. Received an update from staff on recent case law impacting the ICRC (<i>Geris v. OCP</i>).</p>
	<p><b>Decisions Made by Council:</b> N/A</p>

**Quality Assurance**

**Chair:** Stephanie Schurr

**Strategic Priorities:** Public Confidence, Quality Practice

Workplan 2020/2021	Ongoing case decisions for non-compliance and peer and practice assessment outcomes.
	Approval of PREP topic, content and learning objectives.
	Approval of key milestones relating to the competency assessment project.
	Pilot of risk-based selection process.
	Approval to update peer and practice assessment process and materials.

	Non-Compliance Cases	PPA Cases	PPA's Pending	Meetings	Avg Case Time	Response Compliance	HPARB Appeals
	5	7	12	2 virtual, 1 e-vote	PPA: 210 days Non-Compliance: 506 days	100% (7/7)	0
<b>Case Outcomes</b>							
	<b>Non-Compliance (5):</b> 2 Policy Reminders, 1 New Due Date, 1 PPA, 1 Notice of Intent to issue Terms, Conditions and Limitations						
	<b>PPA (7):</b> 7 Take No Action with reminders						
Q1	<b>Commentary:</b> With the pandemic, the SA and PREP due dates were extended from October to December; this impacted communications, vendor and technology planning. Some QA staff were redeployed to assist the Practice team. PPA's were suspended while pivoted to virtual. Average case time during this period includes 5-month COVID-19 suspension of activities. Non-compliance case times can be extensive as in the absence of registrant risk to the public, QA works to support the registrant to participate. Two of the five cases extended beyond 700 days, one resigned, and the other two typical at 246 days.						
	<b>Committee Activities:</b> Kept apprised of final annual QA requirements compliance statistics as well as 2020 MyQA roll-over process; approved Quality Assurance Subcommittee chair for final term; recommended new QA subcommittee member to Council; recommended revised QAC and QA subcommittee terms of reference to Council; and approved revised QA compliance policy.						
	<b>Decisions Made by Council:</b> Approval of the proposed new competency assessment process; appointment of new subcommittee member for a three-year term; approved revised Terms of Reference for both the Quality Assurance Committee and Quality Assurance Subcommittee.						

	Non-Compliance Cases	PPA Cases	PPA's Pending	Meetings	Avg Case Time	Response Compliance	HPARB Appeals
Q2	0	0	4	1 e-vote	PPA: N/A Non-Compliance: N/A	N/A	0
<p><b>Commentary:</b> QA program priorities during this quarter: Request for Proposal was released for the next phase of the competency assessment process project for development of the screening step; recruitment of new peer assessors; revision of process, tools and resources to support virtual PPAs; preparation for risk-based selection pilot.</p>							
<p><b>Committee Activities:</b> Participated in an e-vote to approve an increased number of peer and practice assessments from 30 to 75 to be completed virtually in Q3 and Q4.</p>							
<p><b>Decisions Made by Council:</b> N/A</p>							

	Non-Compliance Cases	PPA Cases	PPAs Pending	Meetings	Avg Case Time	Response Compliance	HPARB Appeals
Q3	18	13	12	3	PPA: 356 (Pandemic = 198 days) Non-Compliance: 40 days	N/A	0
Case Outcomes							
<p><b>Non-Compliance (18):</b> 6 Take No Action (tools were completed), 11 Finish the PREP and SA, 1 referred for PPA.  <b>PPA Cases (13):</b> 2 Take No Action (perfect score), 6 Take No Action, 4 Take No Action with Recommendation(s), 1 SCERP.</p>							
<p><b>Commentary: PPA:</b> All outstanding pre-pandemic PPA's (10) were completed and 15 registrants were selected for a PPA in December using the new risk category selection process (5 deferred).  <b>QA Tools:</b> PREP Compliance for 2020 was 98.51%, and 98.34% for the SA.  <b>Other:</b> The vendor for the screening step started in January. Training of the seven new peer assessors was initiated. The revised assessment template for the PPA was implemented with all coaching tools and registrant resources updated. A QA Webinar on the PPA process and changes to the QA program was completed in January. Quality Assurance Subcommittee did not meet this quarter.</p>							
<p><b>Committee Activities:</b> Committee met on December 7, January 22, and February 25. The following actions were taken: Approved the revised learning plan for the 2021 PREP. Approved the vendor for the screening step. Approved seven new peer assessors. Approved the administrative closure of perfect score cases for selection PPA's by College staff. Reviewed the revised PPA template and Pre-Q. Reviewed the Committee Effectiveness Survey.</p>							
<p><b>Decisions Made by Council:</b> N/A</p>							

## Discipline

**Chair:** Donna Barker

**Strategic Priorities:** Public Confidence, Quality Practice

Workplan 2020/2021	Review and update The Rules of Procedure of the Discipline Committee
	Ensure discipline processes are discharged in a timely and procedurally fair manner

Q1	Case Status			Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved				
	0	1	0				
<b>Commentary:</b> See committee activities.							
<b>Committee Activities:</b> A panel of the Discipline Committee commenced a hearing into a matter referred to it by the ICRC – <i>COTO v. SZ</i> . The hearing took place on July 20, 21, 23 - 24, 27 - 28, 31, and August 4, 2020. No new referrals from the Inquiries, Complaints and Reports Committee (ICRC) were received since the Committee’s last report to Council and no reinstatement applications are pending.							
<b>Decisions Made by Council:</b> Council approved revised terms of reference.							

Q2	Case Status			Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved				
	1	1	0				
<b>Commentary:</b> While a panel of the Discipline Committee released its written Decision and Reasons in <i>COTO v. SZ</i> , it only did so with respect to its findings. As the panel’s order on penalty and costs is pending, the case is not yet resolved.							
<b>Committee Activities:</b> The hearing in progress continued on September 24, 2020 and once all the evidence was heard, the panel hearing the matter commenced its deliberations. 1 new referral was received: <i>COTO v. JS</i> . The panel who heard <i>COTO v. SZ</i> released its decision, finding Ms. SZ committed acts of professional misconduct. A penalty hearing is scheduled for February 9, 2021. Once the case is fully determined, the written Decision and Reasons and Order will be provided to Council.							
<b>Decisions Made by Council:</b> N/A							

	Case Status			Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved				
	0	1	1	288	Revocation, Reprimand, Funding Reimbursement and Costs	N/A	N/A
Q3	<b>Commentary:</b> A panel of the Discipline Committee released its written Decision and Reasons on Penalty and Costs in <i>COTO v. SZ</i>						
	<b>Committee Activities:</b> The panel hearing <i>COTO v. SZ</i> heard oral submissions from both parties respecting penalty and costs on February 9, 2021. Its written reasons for its decision on penalty and costs was released on February 19, 2021. Subject to any appeal that may be filed by Ms. SZ, this hearing is now concluded. A copy of the panel's decision and reasons on finding as well as on penalty and costs are included in Council's FYI Package. The panel decided to revoke Ms. SZ's certificate of registration, require her to appear before them for a reprimand, and to reimburse the College for any amounts accessed by the person she sexually abused under the College's Sexual Abuse Funding Program. Ms. SZ is required to post security in the amount of \$17,370 to guarantee the payment of any amounts she may be required to reimburse the College for. The panel also ordered Ms. SZ to pay costs in amount of \$196,000. The information available about this hearing on the College's discipline webpage and Ms. SZ's profile on the public register was updated and both decisions will be published on CanIII.						
	<b>Decisions Made by Council:</b> N/A						

**Patient Relations**

**Chair:** Jeannine Girard-Pearlman

**Strategic Priorities:** Quality Practice, Public Confidence

Workplan 2020/2021	Review and update the Code of Ethics and the Guide to the Code of Ethics.
	Develop a Client Bill of Rights with input from the Citizen Advisory Group.
	Initiate update of the Standards for Prevention and Management of Conflict of Interest.
	Plan for the needed delivery of sexual abuse training for Council and College staff.
	Identify high level requirements which could enhance the public register’s usability and content.

Q1	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	0	N/A	N/A	N/A	N/A
<b>Commentary:</b> No cases received for Patient Relations.								
<b>Committee Activities:</b> By way of email, reviewed and provided input into draft website content developed to help the public understand what they can expect from their OT during the pandemic.								
<b>Decisions Made by Council:</b> Reappointment of Non-Council member for a 3-year term.								

Q2	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	1	N/A	N/A	N/A	N/A
<b>Commentary:</b> No cases received for Patient Relations								
<b>Committee Activities:</b> One virtual meeting on September 30, 2020 to review the feedback from the consultation on the draft revised Code of Ethics. Further edits to the draft Code of Ethics were made.								
<b>Decisions Made by Council:</b> The revised Code of Ethics was approved, as presented.								

Q3	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	1	N/A	N/A	N/A	N/A
<b>Commentary:</b> No cases received for Patient Relations								
<b>Committee Activities:</b> Meeting December 9, 2020: Decision to retire the Guide to the Code of Ethics, directing College staff to repurpose the content for other educational activities. Reviewed the College’s policy governing the administration of its Sexual Abuse Funding Program (the fund) and directed staff to make revisions. Approved a revised application form regarding access to the fund. Received an update on the purpose, layout and use of the College’s public register and approved the plan to implement changes aimed at enhancing its usability and content. Reviewed a draft Client Bill of Rights and directed staff to send it out for Citizen Advisory Group feedback and a plain language review. Decided that the College’s expanded fund which now includes provision for related non-therapeutic expenses will apply retroactively to past approved applications. Noted that sexual abuse training for Council would be delivered in January 2021.								
<b>Decisions Made by Council:</b> Retirement of the Guide to the Code of Ethics.								

**Fitness to Practise**

**Chair:** Teri Shackleton

**Strategic Priorities:** Quality Practice

Workplan 2020/2021	Orientation and training completed annually.
	Participate in Discipline Orientation Workshop.

Q1	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	0	N/A	N/A	N/A	N/A
<b>Commentary and Committee Activities:</b> N/A								
<b>Decisions Made by Council:</b> Recommended that Council approve its revised Terms of Reference								

Q2	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	0	N/A	N/A	N/A	N/A
<b>Commentary and Committee Activities:</b> Discipline Orientation Workshop was offered for interested committee members on November 12, 2020.								
<b>Decisions Made by Council:</b> N/A								

Q2	Case Status			Meetings	Case Time	Outcomes	Response Compliance	HPARB Appeals
	New	Pending	Resolved					
	0	0	0	0	N/A	N/A	N/A	N/A
<b>Commentary and Committee Activities:</b> N/A								
<b>Decisions Made by Council:</b> N/A								

**Practice Subcommittee**

**Chair:** Jennifer Henderson

**Strategic Priorities:** Quality Practice, System Impact

Workplan 2020/2021	Diversity, Equity and Inclusion document creation. Goal is to have a draft by Q4.
	Review and revise Discontinuation and Social Media documents.
	Standards for Record Keeping and Telepractice document review to start in 2021.
	ADDED: Conscious Decision-Making Framework and Standards for Psychotherapy review.
	Alignment and streamlining of Standards in 2021 to continue into next fiscal year.

	329 Inquiries			Same Day Response	Top OT Themes	Top Public Themes	Documents Completed
	OT	Public	Other				
Q1	86%	4%	10%	93%	COVID-19 Jurisdiction/Telepractice Record Keeping	COVID-19 Ethical Conduct Consent	Acupuncture
	<b>Commentary:</b> Ongoing practice inquiries related to COVID 19; and some in combination with record-keeping and consent. Call spike is typical following Ministry or provincial government announcements. Queries about occupational therapy for return to school was a dominant theme. Increased calls related to jurisdiction and telepractice were received as second wave approached. Workplace consultations were completed as requested to help providers and organizations operationalize and apply the COVID-19 guidance in their practice areas. COVID-19 webpage was maintained with regular Ministry / government updates.						
	<b>Committee Activities:</b> No virtual meeting Q1; Consultation on the Standards for Assessments Aug 11-Sept 1, 2020.						
	<b>Decisions Made by Council:</b> Standards for Acupuncture was approved for publication.						

	402 Inquiries			Same Day Response	Top OT Themes	Top Public Themes	Documents Completed
	OT	Public	Other				
Q2	79%	<1.0%	20%	96%	COVID-19 Psychotherapy Consent	COVID-19 Consent Find an OT	Assessment
	<b>Commentary:</b> New data capturing process was implemented Q2. Inquiries returned to those typical of pre-COVID. Slight rise in school screenings questions. COVID questions revolved around regional restriction frameworks. Question pertaining to Directive 2 and in-person services resurfaced. Ongoing outreach to academic stakeholders (5 University presentations, 1 OTA program). Collaborations with other Practice Advisors continued, and with CASLPO on return to school guidance. Annual meeting with Ministry of Transportation on Discretionary reports and consulted with workplaces about the Standards of Practice for Psychotherapy. Hosted students from University of Toronto.						
	<b>Committee Activities:</b> Meetings on September 16, October 14, and November 25.						
	<b>Decisions Made by Council:</b> Standards for Assessment.						

	470 Inquiries			Same Day Response	Top OT Themes	Top Public Themes	Documents Completed
	OT	Public	Other				
Q3	81%	3.1%	4.6%	98%	COVID-19 Record Keeping Conflict of Interest Jurisdiction	Vaccination Conflict of Interest Find an OT	Discontinuing Services
	<b>Commentary: Practice Resource Program:</b> Diversity, Equity and Inclusion survey launched in January. As part of the survey development process, Practice engaged an OT interest group for high-level commentary. Continue to provide content for newsletter monthly.						
	<b>Student Placements:</b> Students from University of Toronto and University of Ottawa are assisting the Practice program with updating College documents, development of case studies and resources for the public as well as analysing survey responses.						
	<b>Outreach to System Partners:</b> Two academic presentations: Record Keeping and Telepractice panel.						
	<b>Practice Queries:</b> Calls about COVID 19 remain the dominant theme and queries about obtaining vaccines spiked in February.						
	<b>Committee Activities:</b> Meeting on February 4th, 2021: Use of Social Media document approved for Executive Committee review. Consulted with Patient Relations Committee to provide feedback for the revisions to the Standards for Prevention and Management of Conflict of Interest. The new name Practice Subcommittee adopted removing the word “issues”. Subcommittee agrees with the plan to streamline Standards and there was also consensus in moving forward with updating resources to support clarity and application of the Standards for Psychotherapy.						
	<b>Decisions Made by Council:</b> Discontinuing Services						



## COUNCIL BRIEFING NOTE

---

**Date:** March 25, 2021  
**To:** Council  
**From:** Executive Committee  
**Subject:** Risk Management Report

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**Recommendation:**

*THAT Council receives the risk management report.*

**Issue:**

Council in its policy RL12, requires that information on risks, to aid Council in discharging its risk management oversight role, shall not be incomplete or inappropriate. Council has delegated the oversight of the Risk Management Program to the Executive Committee, who has reviewed the report and recommends Council receive it.

The risk register in its entirety was reviewed by Executive at their June 2020 meeting. The risks that have been categorized as high or critical risks in this quarter are brought forward for review. Going forward, the Finance, Audit and Risk Committee will have oversight of the risk management program.

**Public Interest in this Issue:**

Managing risks is a fundamental responsibility of the College as it works to regulate the profession of occupational therapy in the public interest. Ensuring the College understands the risks it faces, the plans in place to control, mitigate, avoid or transfer these risks appropriately is an important oversight responsibility of Council.

**Discussion & Update:**

Each risk is listed along with the control procedures and action plan developed to mitigate each risk. Some risks can only be monitored as they are out of the College's control, however, they are important enough to be listed so the College can move into action quickly once more is known.

**The following high or critical risks have been identified for review in this quarter:**

Risk Category	STRATEGIC
<b>Risk:</b>	<p><b>Regulatory Modernization</b></p> <p>The Ministry of Health will be collecting a large number of metrics and evidence around various facets of all college operations through the College Performance Measurement Framework (CPMF).</p>
<b>Control Procedure(s)</b>	<ol style="list-style-type: none"> <li>1. Membership with Health Profession Regulators of Ontario (HPRO)</li> <li>2. Governance objective on the strategic plan.</li> <li>3. New ongoing Governance Committee with plan to align governance structures and processes with best practices.</li> <li>4. Establishing and sustaining positive government relationships</li> <li>5. Collaborating with the Ministry of Health (MOH) on the College Performance Measurement Framework</li> </ol>
<b>Action Plan &amp; Monitoring Process</b>	<p><b>Monitor through:</b></p> <ol style="list-style-type: none"> <li>1. HPRO meetings and working group participation</li> <li>2. Ministry updates</li> <li>3. College networking updates</li> <li>4. Governance Committee reports at Council Meeting</li> </ol> <p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Deputy Registrar working with Program Managers to collect necessary data</li> <li>2. Governance Committee work will help to fulfil some requirements</li> <li>3. College Performance Measurement Framework to be implemented as per MOH timelines –full report due in March 2021. On the Council meeting agenda for the March, 2021.</li> </ol>

Risk Category	QUALITY
<b>Risk:</b>	<b>OTs with competency deficits may be continuing to practice, unchecked by the College, as the Quality Assurance (QA) program is undergoing redesign.</b>
<b>Control Procedure(s)</b>	<ol style="list-style-type: none"> <li>1. QA competency enhancement requirements in place for all OTs (Prescribed Regulatory Education Program (PREP), self-assessment and professional development plan)</li> <li>2. Monitoring of compliance metrics (MyQA) with mandatory annual QA requirements</li> <li>3. Liability insurance requirements for all OTs being monitored</li> <li>4. Complaints mechanism in place</li> <li>5. QA competency assessment process project well underway: Council approved new process in June 2020</li> <li>6. Interim competency assessment process that was suspended due to COVID-19 set to resume, assessments to be completed by end of 2020.</li> </ol>
<b>Action Plan &amp; Monitoring Process</b>	<p><b>Monitor through:</b></p> <ol style="list-style-type: none"> <li>1. Compliance with mandatory requirements, case reviews by QAC</li> <li>2. Competency assessment project progress and approval by Quality Assurance Committee</li> <li>3. Project progress updates through Quarterly Registrar's Report</li> <li>4. Project progress updates through Quarterly Priority Performance Report</li> </ol> <p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Competency assessment process resuming using virtual means, January 2021</li> <li>2. Project vendor contracted December 2020 to develop screening step and improvements to peer and practice assessment process</li> <li>3. Revised peer and practice assessment process to improve efficiencies and in preparation for pilot</li> <li>4. Pilot first step of new competency assessment process beginning in January 2021</li> <li>5. Additional peer assessors retained to build capacity. Training of new and refresher training of current assessors to be completed in March 2021.</li> <li>6. Review and update policies relating to the peer assessment process, and QAC's capacity and need to review all PPA reports.</li> <li>7. Webinar completed in January for registrants to communicate the QA changes and to help reduce concerns about the new program.</li> </ol>

Risk Category	OPERATIONAL
<b>Risk:</b>	<b>Current information systems/IT infrastructure not meeting the growing organizational needs.</b>
<b>Control Procedure(s)</b>	<ol style="list-style-type: none"> <li>1. Dedicated resources for IT operations</li> <li>2. External vendors providing support</li> <li>3. Contracts with vendors with service level agreements</li> <li>4. Security audit completed. Priority actions resolved.</li> <li>5. Enterprise system plan underway.</li> </ol>
<b>Action Plan &amp; Monitoring Process</b>	<p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Enterprise wide system phase 2, planned for the 2020-2021 fiscal year</li> <li>2. External project manager contracted and work progressing according to plan</li> <li>3. Ongoing financial reserves created for development and maintenance of this critical College infrastructure</li> <li>4. RFP responses are now received and are undergoing review.</li> <li>5. Council will be involved in the approval process for the project.</li> </ol>

Risk Category	OPERATIONAL
<b>Risk:</b>	<b>College operations disrupted as a result of a pandemic (i.e. COVID-19)</b>
<b>Control Procedure(s)</b>	<ol style="list-style-type: none"> <li>1. Pandemic planning documentation revised and updated</li> <li>2. Technology in place to support operational functioning remotely</li> <li>3. College Pandemic task force in place to triage decision-making</li> <li>4. Re-deployment of staff in priority areas as required</li> <li>5. Staff assigned to manage vaccine information requests from public health</li> </ol>
<b>Action Plan &amp; Monitoring Process</b>	<p><b>Monitor through:</b></p> <ol style="list-style-type: none"> <li>1. Regular calls with stakeholders and pandemic task force</li> <li>2. Practice team provides regular updates about challenges experienced on front line to support College priorities and communications</li> <li>3. Regularly reviewing Ministry directives and guidelines to inform College communications and decisions impacting stakeholders</li> <li>4. Regular monitoring of Ministry of Health actions through weekly updates</li> </ol> <p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Review of all processes employed during wave 1 and 2 to inform ongoing actions</li> <li>2. Ongoing review and monitoring of legislation to inform decision-making</li> <li>3. Ongoing discussions regarding registrant challenges to further inform decision-making</li> <li>4. Documents developed to assist occupational therapists to manage many of the practice changes they are experiencing</li> <li>5. Assisting public health units to disseminate vaccine information to eligible registrants</li> <li>6. Updating and documenting of Pandemic plan</li> </ol>

Risk Category	OPERATIONAL
<p><b>Risk:</b></p>	<p><b>Revenue is less than previous years due to COVID-19</b></p> <p>This risk is now considered <u>moderate</u> for the current year, as the revenue is mostly known from renewal. (see financial report). College staff will continue to monitor this for the remainder of this fiscal year, and into the next year as the COVID risk continues.</p>
<p><b>Control Procedure(s)</b></p>	<ol style="list-style-type: none"> <li>1. Timely reporting of renewal numbers and bookkeeping to ensure we know how many registrants have renewed.</li> <li>2. Payment plans offered to all OTs.</li> <li>3. Options to liquidate investments explored and strategy in place.</li> </ol>
<p><b>Action Plan &amp; Monitoring Process</b></p>	<p><b>Monitor through:</b></p> <ol style="list-style-type: none"> <li>1. Regular communication with stakeholders to inform constraints and requirements for spending</li> <li>2. Regular forecasting to refine projections as the year progresses</li> <li>3. Future planning based on known and assumed changes expected to operational expenditures</li> </ol> <p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Monitoring of the COVID-19 pandemic on the College's registrant base to better understand the impact</li> <li>2. Payment plan to be implemented to start in March 2021. Renewal will be back on the normal deadline of May 31. Registrants who need additional consideration can contact the College directly. Will need to monitor the volume of later payments to manage cash flow.</li> </ol>

Risk Category	STAKEHOLDER
<p><b>Risk:</b></p>	<p><b>(NEW) Relational risk with registrants as the College continues our regular operations and fees despite the ongoing pandemic.</b></p> <p>The College’s mandate to protect the public can become lost by registrants when they manage difficult times, such as practice and income stress brought upon by a healthcare crisis. The return to usual College activities such as sending out consultations and surveys, enforcing Quality Assurance expectations, and not lowering fees have resulted in an increase in negative registrant interactions, evidenced by comments received as we continue our work. With the pandemic continuing, and the return of programs like Practice Document Review, Bylaw Revisions, Quality Assurance Peer Assessments and upcoming Registration renewal, we expect ongoing concerns from registrants.</p>
<p><b>Control Procedure(s)</b></p>	<ol style="list-style-type: none"> <li>1. Fee stability will be maintained in 2021 and the processes for annual renewal will proceed as normal. An extended time frame is not planned.</li> <li>2. Registrants will be given the option of payment in installments that will commence upon notice of renewal and end at the May 31 deadline. Registrants who need additional consideration can contact the College as needed.</li> <li>3. QA activities will continue to resume, as these are part of the College’s legal requirements as a regulator. Further, the QA tools are designed to help OTs provide safe, ethical and competent care of clients, which is even more important during a healthcare crisis.</li> </ol>
<p><b>Action Plan &amp; Monitoring Process</b></p>	<p><b>Monitor through:</b></p> <ol style="list-style-type: none"> <li>1. Tracking and monitoring messaging to the College from registrants during renewal and all interactions.</li> <li>2. Monitoring compliance of QA and registration requirements and comparing these to previous years.</li> </ol> <p><b>Action Plan:</b></p> <ol style="list-style-type: none"> <li>1. Ensure communication is well planned and well timed to facilitate improved understanding of requirements for self regulation.</li> <li>2. Plan for ongoing communications with registrants as necessary.</li> <li>3. Carefully plan for messaging and strategies to maintain all stakeholder relations as the pandemic continues.</li> <li>4. Ensure College staff respond to all inquiries, providing options where appropriate.</li> </ol>



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Julie Entwistle, Deputy Registrar  
**Subject:** College Performance Measurement Framework (CPMF)

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### **Recommendation:**

*THAT Council approves the completed College Performance Measurement Framework (CPMF) for submission to the Ministry of Health.*

### **Background:**

The CPMF is a new (2020) Ministry of Health initiative to introduce consistent accountability for health-related self-regulatory Colleges in Ontario. First released in draft in September 2020, and as a final version in December 2020, Colleges are required to use the CPMF to report on seven measurements and two context domains, as outlined in the document. This document requires Council approval before being submitted to the Ministry of Health by the deadline of March 31, 2021. Annual reporting (calendar year) is expected to follow.

There are sizable benefits to the College being held accountable for the work we complete and for providing clear and consistent information to the Ministry under standard criteria. Doing so improves our positive reputation in the regulatory space and showcases our openness to transparency and honesty as our regulatory activities and outcomes are made public. This will aid us in achieving our Mission of "Regulatory Excellence."

The process of reviewing and completing this first report has proven immensely valuable. Despite a pandemic year of uncertainty, innovation, and time dedicated to COVID response, knowing what the Ministry is expecting of their regulators is an important step in being accountable to our important work in public protection.

### **Public Interest in this issue:**

As a self-regulated profession, enhancing accountability and providing valuable information publicly will help to build stakeholder and public trust, and ideally help us to continue to excel as a regulator where we are protecting the public through our operations and programs.

### **Implications:**

As a result of completing the CPMF, the following action items were identified, and these were clearly outlined at the beginning of the report:

COUNCIL BRIEFING NOTE

Domain	Standard	2021 Action Item(s)
1	1.1 a. Professional members are eligible to stand for election only after: i. meeting pre-defined competency/suitability criteria and ii. attending an orientation training about the College's mandate and expectations pertaining to the members' role and responsibilities.	The governance modernization workplan includes identifying competencies for both Council and Committee members and orientation and training before eligibility to stand for elections. These will be finalized in 2021 and made public.
1	2.1 b. The College enforces cooling-off periods.	Council approved proposed amendments to its bylaws which were sent out for consultation in November 2020. One of the amendments imposed a 3-year cooling off period for Council and Committee members. Following the consultation period, this was approved this January 2021. Prior to this, the bylaw stated that council members could not be directors of an association at the same time.
1	3.1 a. Council minutes (once approved) are clearly posted on the College's website. Attached to the minutes is a status update on implementation of Council decisions to date (e.g., indicate whether decisions have been implemented, and if not, the status of the implementation).	The College will include a status update for all Council decisions in the Council packages to be implemented in 2021.
6	11.2 Is the process taken (for identifying priority areas for QA assessment) codified in a policy?	When the second step for QA peer and practice assessment selection is developed and finalized, one policy will be developed to outline the program.
6	12.1 Does the College evaluate whether the information provided (for complaints and complainants) is clear and useful?	In January 2021, the College launched a complaint process feedback survey for complainants and registrants to anonymously complete once their matter is determined. Some of the questions asked specifically seek to evaluate whether the information provided about the College's complaints process was clear and useful. Additional materials, which underwent an external plain language review explaining the complaints process, were developed and launched in March 2021. These materials can be emailed to persons who make inquiries about the complaints process and are also enclosed with the complaint notice and acknowledgment letters mailed out to the parties to a complaint.

COUNCIL BRIEFING NOTE

Domain	Standard	2021 Action Item(s)
6	14.1 a. The College does not have a written policy outlining consistent criteria for disclosure and examples of the general circumstances and type of information that has been shared between the College and other relevant system partners, within the legal framework, about concerns with individuals and any results.	The College will develop a written policy in 2021 to address this.

**Attachments:**

1. DRAFT CPMF



# COLLEGE PERFORMANCE MEASUREMENT FRAMEWORK

**SUBMITTED BY:** THE COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

**REPORTING PERIOD:** CALENDAR YEAR 2020

**DATE OF SUBMISSION:** MARCH 26, 2021

**DATE OF COUNCIL APPROVAL:** MARCH 25, 2021

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DRAFT

## Introduction

This is our inaugural version of the required College Performance Measurement Framework, introduced by the Ministry of Health in 2020. For regulators in Ontario, this report provides regulators with specific criteria by which to continuously improve operations and to report on the outcomes of their regulatory activities. In sharing the content of this report, Colleges will enhance the transparency of how they are meeting their mandate of ensuring public protection, through programs and processes. It is known that you “can’t manage what you don’t measure” and the completion of this report is an important step in helping regulators, our College included, to fulsomely look under the hood to identify strengths and weaknesses, areas for improvement and set benchmarks. We are pleased to report that the College of Occupational Therapists of Ontario is compliant with 34 of the 40 items and have summarized the 6 action areas within this report. Action plans are already underway to accomplish the required changes in 2021. The College’s strategic priorities has included many of the areas contained within this report as further commitment to excellence in regulatory practices. See our Leadership Outcomes, [2020 - 2023 Leadership Outcomes \(coto.org\)](#)

Notice to Reader: For reporting purposes, the full document, including the introduction and background has not been provided. All College answers have been **bolded** to separate the answers from the question / criteria. Blank or empty cells, or those “NA” were removed. We hope this improves readability. While all links were operational at the time of submission, we cannot guarantee that some won’t change through future iterations to the material available online. Lastly, the information provided for Context Measures has been compiled, to the best of our ability, using the “Technical Specifications for Quantitative College Performance Measurement Framework Measures” companion document.

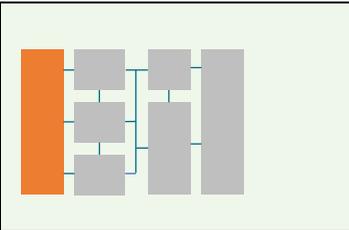
Questions regarding the content of this document can be directed to [info@coto.org](mailto:info@coto.org) or the Registrar.

## Summary of 2021 Action Items

Domain	Standard	2021 Action Item(s)
1	1.1 a. Professional members are eligible to stand for election only after: i. meeting pre-defined competency / suitability criteria and ii. attending an orientation training about the College's mandate and expectations pertaining to the members' role and responsibilities.	The governance modernization workplan includes identifying competencies for both Council and Committee members and orientation and training before eligibility to stand for elections. These will be finalized in 2021 and made public.
1	2.1 b. The College enforces cooling off periods.	Council approved proposed amendments to its bylaws which were sent out for consultations in November 2020. One of the amendments imposed a 3-year cooling off period for Council and Committee members. Following the consultation period this was approved this January 2021. Prior to this, the bylaw stated that council members could not be directors of an association at the same time.
1	3.1 a. Council minutes (once approved) are clearly posted on the College's website. Attached to the minutes is a status update on implementation of Council decisions to date (e.g. indicate whether decisions have been implemented, and if not, the status of the implementation).	The College will include a status update for all Council decisions in the Council packages to be implemented in 2021.
6	11.2 Is the process taken (for identifying priority areas for QA assessment) codified in a policy?	When the second step for QA peer and practice assessment selection is developed and finalized, one policy will be developed to outline the program.
6	12.1 Does the College evaluate whether the information provided (for complaints and complainants) is clear and useful?	In January 2021, the College launched a complaint process feedback survey for complainants and registrants to anonymously complete once their matter is determined. Some of the questions asked specifically seek to evaluate whether the information provided about the College's complaints process was clear and useful. Additional materials, which underwent an external plain language review, explaining the complaints process were developed and launched in March 2021. These materials can be emailed to persons who make inquiries about the complaints process and are also enclosed with the complaint notice and acknowledgment letters mailed out to the parties to a complaint.
6	14.1 a. The college does not have a written policy outlining consistent criteria for disclosure and examples of the general circumstances and type of information that has been shared between the College and other relevant system partners, within the legal framework, about concerns with individuals and any results.	The College will develop a written policy in 2021 to address this.

## Part 1: Measurement Domains

DOMAIN 1: GOVERNANCE	
<b>Standard 1</b> Council and statutory committee members have the knowledge, skills, and commitment needed to effectively execute their fiduciary role and responsibilities pertaining to the mandate of the College.	
Measure	1.1 Where possible, Council and Statutory Committee members demonstrate that they have the knowledge, skills, and commitment prior to becoming a member of Council or a Statutory Committee.
Required Evidence	a. Professional members are eligible to stand for election to Council only after: <ol style="list-style-type: none"> <li>meeting pre-defined competency / suitability criteria, and</li> <li>attending an orientation training about the College’s mandate and expectations pertaining to the member’s role and responsibilities.</li> </ol>
College Response	The College fulfills this requirement:    Yes <input type="checkbox"/> <b>Partially X</b> No
1. The competency/suitability criteria are public:    Yes <input type="checkbox"/> <b>Partially X</b> No  We have suitability criteria in our bylaws under <a href="#">Part 5.03, (p.11)</a> . We are in the process of implementing a competency-based election process. All members standing for election must complete a statement of how they will protect the public in their role, that must be approved. An orientation live webinar is conducted for those interested in standing for election that includes some expectations of competencies for the role <a href="#">2021 Elections Webinar Recording Now Available</a> . This is posted on the website. The Registrar contacts each candidate prior to the election to confirm they understand the role and expectations.  Duration of orientation training: <b>Newly elected Council member(s) and Public Appointees undergo a half-day training session prior to the first Council meeting. Council undergoes a half-day training session annually.</b>	
2. Format of orientation training (e.g. in-person, online, with facilitator, testing knowledge at the end): <b>Council orientation is done in-person / virtual, facilitated by College Legal Counsel and/or Staff.</b>	
3. Insert a link to website if training topics are public <b>OR</b> list orientation training topics:	
<ul style="list-style-type: none"> <li>• Introduction to Regulatory Framework</li> <li>• Public Interest</li> <li>• Roles and Structures</li> <li>• Role of Council</li> <li>• Role of Individual Council Members</li> <li>• Current issues of the College</li> </ul>	<ul style="list-style-type: none"> <li>• Confidentiality</li> <li>• Risk Management</li> <li>• Rules of Order of Council</li> <li>• Finance (how to read financial statements)</li> <li>• Submitting expenses and completing expense forms</li> </ul>
<ul style="list-style-type: none"> <li>• Role of Individual Committee Members</li> <li>• Fiduciary Duties</li> <li>• Conflict of Interest</li> <li>• Bias</li> <li>• College Operations</li> <li>• Strategic Plan</li> </ul>	



If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period? <b>Yes X</b> No <input type="checkbox"/>	
Additional comments for clarification (optional):  <b>The governance modernization workplan includes identifying competencies for both Council and Committees. These will be finalized in 2021 and will be made public. Orientation training before eligibility to stand for elections is also on the governance workplan.</b>	
<b>Required Evidence</b>	b. Statutory Committee candidates have: i. met pre-defined competency / suitability criteria, and ii. attended an orientation training about the mandate of the Committee and expectations pertaining to a member’s role and responsibilities.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No <input type="checkbox"/>
The competency / suitability criteria are public:    Yes <input type="checkbox"/> <b>Partial X</b> No	
<i>If yes, please insert link to where they can be found, if not please list criteria:</i>  <b>In making professional appointments, the College considers the district of practice, experience, expertise and other qualifications and characteristics of a candidate for appointment, to balance the attributes of the current Committee members. An example of such listing can be found in this <a href="#">website posting of a call for non-Council Committee members</a>.</b>  <b>In addition, Statutory Committee members are selected on a competency and criteria base. The competencies are not yet public. Each prospective member is interviewed and must meet predefined inclusion criteria.</b>  Duration of each Statutory Committee orientation training:  <b>Full Committee orientation training occurs annually for a half-day. Each new member attends orientation prior to their first meeting.</b>  Format of each orientation training (e.g. in-person, online, with facilitator, testing knowledge at the end):  <b>Committee training is done in-person / virtual and facilitated by College Legal Counsel and/or staff.</b>  Insert link to website if training topics are public <b>OR</b> list orientation training topics for Statutory Committee:	
<ul style="list-style-type: none"> <li>• <b>Individual statutory program requirements (includes program requirements, legislative and regulation requirements, powers of the Committee as well as review of program policies and procedures)</b></li> <li>• <b>Code of Conduct</b></li> <li>• <b>Confidentiality</b></li> <li>• <b>Conflict of Interest</b></li> <li>• <b>Human Rights and the Ontario Human Rights Code</b></li> <li>• <b>Accommodation</b></li> <li>• <b>Decision making and tools</b></li> <li>• <b>Bias</b></li> <li>• <b>Decision- writing</b></li> </ul>	

If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period? <b>Yes X</b> No <input type="checkbox"/>				
Additional comments for clarification (optional):  <b>The governance modernization workplan includes identifying competencies for both Council and Committee members and orientation and training before eligibility to stand for elections. These will be finalized in 2021 and made public.</b>				
<b>Required Evidence</b>	c. Statutory Committee candidates have: i. met pre-defined competency / suitability criteria, and ii. attended an orientation training about the mandate of the Committee and expectations pertaining to a member’s role and responsibilities.			
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No <input type="checkbox"/>			
Duration of orientation training:  <b>Each new public member receives a half day of training, similar to professional members, prior to attending their first Council meeting. They also attend orientation prior to attendance at any statutory committee meeting. There is a half-day training session before the start of new Council year. In addition, a portion of each Council meeting includes education or additional training sessions that Council identifies as learning priorities.</b>				
Format of orientation training (e.g. in-person, online, with facilitator, testing knowledge at the end):  <b>Typically, training is in-person, but this transitioned to virtual during the pandemic. Training is facilitated by College staff and Council President.</b>				
Insert link to website if training topics are public <i>OR</i> list orientation training topics:				
<table border="1"> <tr> <td> <ul style="list-style-type: none"> <li>• Introduction to Regulatory Framework</li> <li>• Public Interest</li> <li>• Roles and Structures</li> <li>• Role of Council</li> <li>• Role of Individual Council Members</li> <li>• Conflict of Interest</li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• Role of Individual Committee Members</li> <li>• Fiduciary Duties</li> <li>• Bias</li> <li>• Confidentiality</li> <li>• Risk Management</li> </ul> </td> <td> <ul style="list-style-type: none"> <li>• Submitting expenses and completing expense forms</li> <li>• College Operations</li> <li>• Strategic Plan</li> <li>• Current issues of the College</li> <li>• Rules of Order of Council</li> <li>• Finance (how to read financial statements)</li> </ul> </td> </tr> </table>		<ul style="list-style-type: none"> <li>• Introduction to Regulatory Framework</li> <li>• Public Interest</li> <li>• Roles and Structures</li> <li>• Role of Council</li> <li>• Role of Individual Council Members</li> <li>• Conflict of Interest</li> </ul>	<ul style="list-style-type: none"> <li>• Role of Individual Committee Members</li> <li>• Fiduciary Duties</li> <li>• Bias</li> <li>• Confidentiality</li> <li>• Risk Management</li> </ul>	<ul style="list-style-type: none"> <li>• Submitting expenses and completing expense forms</li> <li>• College Operations</li> <li>• Strategic Plan</li> <li>• Current issues of the College</li> <li>• Rules of Order of Council</li> <li>• Finance (how to read financial statements)</li> </ul>
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<b>Measure</b>	1.2 Council regularly assesses its effectiveness and addresses identified opportunities for improvement through ongoing education.			
<b>Required Evidence</b>	a. Council has developed and implemented a framework to regularly evaluate the effectiveness of: i. Council meetings; ii. Council			
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No			

<p>Year when Framework was developed <b>OR</b> last updated: <b>2020</b></p> <p>Insert a link to Framework <b>OR</b> link to Council meeting materials where (updated) Framework is found and was approved: <a href="#">Council Meeting Package – January 28, 2020 (p.94)</a></p> <p>Evaluation and assessment results are discussed at public Council meeting: <b>Yes X</b> No <input type="checkbox"/></p> <p><i>If yes, insert link to last Council meeting where the most recent evaluation results have been presented and discussed: <a href="#">Council Meeting Package – March 26, 2020 (p. 13)</a></i></p>	
<b>Required Evidence</b>	b. The framework includes a third-party assessment of Council effectiveness at a minimum every three years
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>A third party has been engaged by the College for evaluation of Council effectiveness: <b>Yes X</b> No <input type="checkbox"/></p> <p><i>If yes, how often over the last five years? <b>Once</b></i></p> <p>Year of last third-party evaluation: <b>2019</b></p>	
<b>Required Evidence</b>	c. Ongoing training provided to Council has been informed by: <ul style="list-style-type: none"> <li>i. the outcome of relevant evaluation(s), and/or</li> <li>ii. the needs identified by Council members.</li> </ul>
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to documents outlining how outcome evaluations and/or needs identified by members have informed Council training; <a href="#">Council Meeting Package (p.19)</a></p> <p>Insert a link to Council meeting materials where this information is found <b>OR</b></p> <p>Describe briefly how this has been done for the training provided <u>over the last year.</u></p> <p><b>As part of the annual Council Member self-evaluation form there is an opportunity for Council members to identify their own individual development or education interests. The feedback is collated and shared with Executive Committee who decides on the education/training needs for the upcoming College Council year. Additional training and education Council received in 2020 include:</b></p> <ul style="list-style-type: none"> <li>• <b>Understanding and reading financial statements</b></li> <li>• <b>Conflict of Interest</b></li> <li>• <b>College Performance Measurement Framework reporting tool</b></li> <li>• <b>Indigenous history and health</b></li> </ul> <p><b>Council can also indicate on the evaluation they complete after each meeting, if there is any education they need or want.</b></p>	

Standard 2	
Council decisions are made in the public interest.	
<b>Measure</b>	2.1 All decisions related to a Council’s strategic objectives, regulatory processes, and activities are impartial, evidence-informed, and advance the public interest.
<b>Required Evidence</b>	a. The College Council has a Code of Conduct and ‘Conflict of Interest’ policy that is accessible to the public.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No
Year when Council Code of Conduct and ‘Conflict of Interest’ Policy was implemented <b>OR</b> last evaluated/updated: <b>Code of Conduct – October 2019, next review is scheduled for 2021.</b> <b>Conflict of Interest – January 2019, next review is scheduled for 2021.</b> Insert a link to Council Code of Conduct and ‘Conflict or Interest’ Policy <b>OR</b> Council meeting materials where the policy is found and was discussed and approved:  <a href="#">Council Meeting – October 10, 2019: Code of Conduct (p.4)</a>  <a href="#">Council Meeting – January 31, 2019: Conflict of Interest (p.4)</a>	
<b>Required Evidence</b>	b. The College enforces cooling off periods. <sup>1</sup>
<b>College Response</b>	The College fulfills this requirement:    Yes    Partially <b>No X</b>
Cooling off period is enforced through:    Conflict of interest policy <input type="checkbox"/> <b>By-law X</b> Competency/Suitability criteria <input type="checkbox"/> Other <please specify>  The year that the cooling off period policy was developed <b>OR</b> last evaluated/updated: How does the college define the cooling off period? Insert a link to policy / document specifying the cooling off period, including circumstances where it is enforced; Insert a link to Council meeting where cooling of period has been discussed and decided upon; <b>OR</b> where not publicly available, please describe briefly cooling off policy:	
If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period? <b>Yes X</b> No <input type="checkbox"/>	

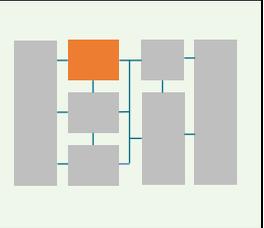
<sup>1</sup> Cooling off period refers to the time required before an individual can be elected to Council where an individual holds a position that could create an actual or perceived conflict of interest with respect to his or her role and responsibility at the college.

Additional comments for clarification (optional): <b>Council approved proposed amendments to its bylaws which were sent out for consultations in November 2020. One of the amendments imposed a 3-year cooling off period for Council and Committee members. Following consultation, the amendment was approved in January 2021.</b> <b>Prior to this, the bylaw stated that Council members could not be directors of an association at the same time.</b>	
<b>Required Evidence</b>	c. The College has a conflict of interest questionnaire that all Council members must complete annually. <u>Additionally:</u> i. the completed questionnaires are included as an appendix to each Council meeting package; ii. questionnaires include definitions of conflict of interest; iii. questionnaires include questions based on areas of risk for conflict of interest identified by Council that are specific to the profession and/or College; and iv. at the beginning of each Council meeting, members must declare any updates to their responses and any conflict of interest <u>specific to the meeting agenda</u>
<b>College Response</b>	The College fulfills this requirement: Yes <b>Partially X</b> No
The year when conflict of interest the questionnaire was implemented <b>OR</b> last evaluated/updated: <b>January 2019</b> Member(s) update his or her questionnaire at each Council meeting based on Council agenda items: <b>Always X</b> (every meeting conflict of interest is declared by agenda item) Often <input type="checkbox"/> Sometimes <input type="checkbox"/> Never <input type="checkbox"/> <b>Council members verbally declare any conflict of interest as part of the agenda at the start of each meeting. Council members sign a conflict-of-interest declaration yearly. Conflict of interest has been a topic of education for all council members on an annual basis.</b> Insert a link to most recent Council meeting materials that includes the questionnaire: Insert a link to most recent Council meeting materials that includes the questionnaire: <a href="#">Council Meeting Package – March 26, 2020 (p.175).</a>	
If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period? <b>Yes X</b> No <input type="checkbox"/>	
Additional comments for clarification (optional): <b>The governance modernization workplan includes a review of both Council and Committees conflict of interest process, to be finalized in 2021.</b>	
<b>Required Evidence</b>	d. Meeting materials for Council enable the public to clearly identify the public interest rationale (See Appendix A) and the evidence supporting a decision related to the College’s strategic direction or regulatory processes and actions (e.g. the minutes include a link to a publicly available briefing note).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
Describe how the College makes public interest rationale for Council decisions accessible for the public:	

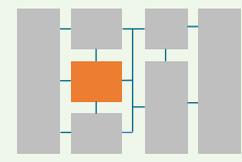
<p><b>All briefing materials include a rationale to explain why the matter for discussion is in the public interest.</b></p> <p>Insert a link to meeting materials that include an example of how the College references a public interest rationale: <a href="#">Council Meeting Package – October 29, 2020 (p.119)</a>.</p>	
<p><b>Standard 3</b></p> <p><b>The College acts to foster public trust through transparency about decisions made and actions taken.</b></p>	
<b>Measure</b>	3.1 Council decisions are transparent.
<b>Required Evidence</b>	a. Council minutes (once approved) are clearly posted on the College’s website. Attached to the minutes is a status update on implementation of Council decisions to date (e.g. indicate whether decisions have been implemented, and if not, the status of the implementation).
<b>College Response</b>	The College fulfills this requirement:    Yes <b>Partially X</b> No
<p>Insert link to webpage where Council minutes are posted: <a href="#">Council Meetings and Materials</a></p> <p><a href="#">Council Meeting – October 29, 2020: Minutes from last Council meeting in 2020</a></p>	
<p>If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period?    <b>Yes X</b>    No <input type="checkbox"/></p>	
<p>Additional comments for clarification (optional):</p> <p><b>The College will look to include a status update for all Council decisions in the Council packages moving forward.</b></p>	
<b>Required Evidence</b>	b. The following information about Executive Committee meetings is clearly posted on the College’s website (alternatively the College can post the approved minutes if it includes the following information). i. the meeting date; ii. the rationale for the meeting; iii. a report on discussions and decisions when Executive Committee acts as Council or discusses/deliberates on matters or materials that will be brought forward to or affect Council; and iv. if decisions will be ratified by Council.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No
<p>Insert a link to webpage where Executive Committee minutes / meeting information are posted:</p> <p><b>There is a fulsome summary of each Executive Committee meeting and all decisions made including those to be ratified by Council included in each Council meeting package and is public.</b>  <a href="#">2020-10-29---council-package.pdf (coto.org)</a>, Page 18.</p>	

Required Evidence	c. Colleges that have a strategic plan and/or strategic objectives post them clearly on the College’s website (where a College does not have a strategic plan, the activities, or programs it plans to undertake).
College Response	The College fulfills this requirement: <b>Yes X</b> Partially    No
Insert a link to the College’s latest strategic plan and/or strategic objectives: <a href="#">College of Occupational Therapists of Ontario – Leadership Outcomes 2020-2023</a>	
Measure	3.2 Information provided by the College is accessible and timely.
Required Evidence	a. Notice of Council meeting and relevant materials are posted at least one week in advance.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially    No
Required Evidence	b. Notice of Discipline Hearings are posted at least one week in advance and materials are posted (e.g. allegations referred).
College Response	The College fulfills this requirement: <b>Yes X</b> Partially    No
If the response is “partially” or “no”, is the College planning to improve its performance over the next reporting period?    Yes <input type="checkbox"/> No <input type="checkbox"/>	
Additional comments for clarification (optional):	
<p><b>Section 17 of the Ontario Regulation 226/96 under the <i>Occupational Therapy Act, 1991</i> requires the College to post on its website the notice of a discipline hearing not less than 14 days before the date of the hearing. The College meets this requirement. For instance, for the 1 referral to the Discipline Committee that occurred within 2020, notice of the referral and access to the Statement of Allegations appeared on the College website in both French and English and on the registrant’s profile on the public register within 1 week of the ICRC’s referral being made. Both French and English versions of the Notice of Hearing were published on the College website within 11 days of the Notice of Hearing being served on the registrant, and within 22 days of the ICRC’s referral. The College promptly updates the registrant’s public register profile and its Discipline webpage as new information about the hearing becomes available, including providing details of any scheduled pre-hearing conference and hearing dates.</b></p>	

DOMAIN 2: RESOURCES	
Standard 4 The College is a responsible steward of its (financial and human) resources.	
Measure	4.1 The College demonstrates responsible stewardship of its financial and human resources in achieving its statutory objectives and regulatory mandate.
Required Evidence	a. The College’s strategic plan (or, where a College does not have a strategic plan, the activities, or programs it plans to undertake) has been costed and resources have been allocated accordingly. <u>Further clarification:</u> A College’s strategic plan and budget should be designed to complement and support each other. To that end, budget allocation should depend on the activities or programs a College undertakes or identifies to achieve its goals. To do this, a College should have estimated the costs of each activity or program and the budget should be allocated accordingly.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially   No
Insert a link to Council meeting materials that include approved budget <b>OR</b> link to most recent approved budget:  Insert a link to Council meeting materials that include approved budget <b>OR</b> link to most recent approved budget: <a href="#">Council Meeting Package – June 23, 2020 (pp. 69-71)</a>	
Required Evidence	b. The College: i. has a “financial reserve policy” that sets out the level of reserves the College needs to build and maintain in order to meet its legislative requirements in case there are unexpected expenses and/or a reduction in revenue and furthermore, sets out the criteria for using the reserves; ii. possesses the level of reserve set out in its “financial reserve policy”.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially   No
<u>If applicable:</u>  Insert a link to “financial reserve policy” <b>OR</b> Council meeting materials where financial reserve policy has been discussed and approved: <a href="#">Council Meeting Package – March 26, 2020 (pp. 82-84)</a>  Insert most recent date when “financial reserve policy” has been developed <b>OR</b> reviewed/updated: <b>At the March 26, 2020 Council meeting changes to the “Establishing and Maintaining Reserve Funds” were approved.</b>	



<p><b>The Registrar Limitations Policy entitled “Financial Condition and Activities” outlines the requirement to follow the guidelines for “Establishing and Maintaining Reserve Funds”, was last revised in June 2019 and has been included as an appendix (Appendix A).</b></p> <p>Has the financial reserve policy been validated by a financial auditor? <b>Yes X</b> No <input type="checkbox"/></p> <p><b>Each year during the financial audit the external auditors review the financial reserve balances and provide the Executive Committee and Council with advice on balances if they fall outside of the Canada Revenue Agency guidelines. They also provide advice on existing funds if they deem it is required.</b></p>	
<b>Required Evidence</b>	<p>c. Council is accountable for the success and sustainability of the organization it governs. This includes ensuring that the organization has the workforce it needs to be successful now and, in the future (e.g. processes and procedures for succession planning, as well as current staffing levels to support College operations).</p>
<b>College Response</b>	<p>The College fulfills this requirement: <b>Yes X</b> Partially No</p> <p>Insert a date and link to Council meeting materials where the College's Human Resource plan, as it relates to the Operational and Financial plan, was discussed.</p> <p><b>The budget was approved on June 23, 2020, which would include any changes planned in human resources. <a href="#">Council Meeting Package – June 23, 2020 (pp. 69-71)</a> (this refers to the budget approval in June)</b></p> <p><b>In the annual budgeting process, Council approves the allocations made to staff salaries. This would include any budget for increasing the staffing complement. Additionally, the College has a practice of completing organizational reviews periodically, as the environment changes. This process considers the strategic plan, which is approved by Council, and the human resources required to support the delivery of strategic outcomes.</b></p> <p><b>The Registrar Limitations Policy titled “Financial Planning and Budgeting” outlines the requirements for the budget submitted to Council, and includes language related to planning for an appropriate balance between human and financial resources in meeting the organizations strategic objectives. This was last revised and approved by Council in June 2019 and is included in the appendix (Appendix B).</b></p>

<b>DOMAIN 3: SYSTEM PARTNER</b>		
<b>Standard 5</b> The College actively engages with other health regulatory Colleges and system partners to align oversight of the practice of the profession and support execution of its mandate.		
<b>Standard 6</b> The College maintains cooperative and collaborative relationships to ensure it is responsive to changing public expectations.		
<b>Standard 7</b> The College responds in a timely and effective manner to changing public expectations.		
<p><i>College Response</i></p> <p><i>Colleges are requested to provide a narrative that highlights their organization’s best practices for each of the following three standards. An exhaustive list of interactions with every system partner the College engages is not required.</i></p> <p><i>Colleges may wish to provide Information that includes their key activities and outcomes for each best practice discussed with the ministry, or examples of system partnership that, while not specifically discussed, a College may wish to highlight as a result of that dialogue. For the initial reporting cycle, information may be from the recent past, the reporting period, or is related to an ongoing activity (e.g., planned outcomes).</i></p>		
The three standards under this domain are not assessed based on measures and evidence like other domains, as there is no ‘best practice’ regarding the execution of these three standards.  Instead, Colleges will report on key activities, outcomes, and next steps that have emerged through a	<p><b>Standard 5: The College actively engages with other health regulatory colleges and system partners to align oversight of the practice of the profession and support execution of its mandate.</b></p> <p>Recognizing that a College determines entry to practice for the profession it governs, and that it sets ongoing standards of practice within a health system where the profession it regulates has multiple layers of oversight (e.g. by employers, different legislation, etc.), Standard 5 captures how the College works with other health regulatory colleges and other system partners to support and strengthen alignment of practice expectations, discipline processes, and quality improvement across all parts of the health system where the profession practices. A College is asked to report on:</p>	

<p>dialogue with the Ministry of Health.</p>	<p><i>How it has engaged other health regulatory Colleges and other system partners to strengthen the execution of its oversight mandate and aligned practice expectations? Please provide details of initiatives undertaken, how engagement has shaped the outcome of the policy/program and identify the specific changes implemented at the College (e.g. joint standards of practice, common expectations in workplace settings, communications, policies, guidance, website etc.).</i></p>	
<p>Beyond discussing what Colleges have done, the dialogue might also identify other potential areas for alignment with other Colleges and system partners.</p> <p>In preparation for their meetings with the ministry, Colleges have been asked to submit the following information: Colleges should consider the questions pertaining to each standard and identify examples of initiatives and projects undertaken during the reporting period that demonstrate the three standards, and the dates on which these initiatives were undertaken.</p>	<p><b>Standard 6: The College maintains cooperative and collaborative relationships to ensure it is responsive to changing public/societal expectations.</b></p> <p>The intent of standard 6 is to demonstrate that a College has formed the necessary relationships with system partners to ensure that it receives and contributes information about relevant changes to public expectations. This could include both relationships where the College is “pushed” information by system partners, or where the College proactively seeks information in a timely manner.</p> <p><i>Please provide some examples of partners the College regularly interacts with including patients/public and how the College leverages those relationships to ensure it can respond to changing public/societal expectations.</i></p> <p><i>In addition to the partners it regularly interacts with, the College is asked to include information about how it identifies relevant system partners, maintains relationships so that the College is able access relevant information from partners in a timely manner, and leverages the information obtained to respond (specific examples of when and how a College responded is requested in standard 7).</i></p>	<p><b>Standard 7: The College responds in a timely and effective manner to changing public expectations.</b></p> <p>Standard 7 highlights successful achievements of when a College leveraged the system partner relationships outlined in Standard 6 to implement changes to College policies, programs, standards etc., demonstrating how the College responded to changing public expectations in a timely manner.</p> <p><i>How has the College responded to changing public expectations over the reporting period and how has this shaped the outcome of a College policy/program? How did the College engage the public/patients to inform changes to the relevant policy/program? (e.g. Instances where the College has taken the lead in strengthening interprofessional collaboration to improve patient experience, examples of how the College has signaled professional obligations and/or learning opportunities with respect to the treatment of opioid addictions, etc.).</i></p> <p><i>The College is asked to provide an example(s) of key successes and achievements from the reporting year.</i></p>
<p><i>College Response</i></p>		
<p><b>In providing information for System Partners, we have combined the sections as follows:</b></p> <p><b>COVID RESPONSE</b></p> <p><u><b>Standard 5</b></u></p> <p><b>As with all other health regulators, the College has been heavily impacted by COVID-19. All College operations were shifted to virtual starting in early March 2020, including Council meetings, a planned Discipline Hearing, and the Quality Assurance program’s peer and practice assessments.</b></p>		

The pandemic has challenged us all, while also providing the opportunity to work together to the best of our abilities. The College has worked together with registrants, the public, the provincial association, other regulators, the Ministry, and system partners to effectively serve the public and promote public safety. Occupational therapists work in a variety of settings and have been affected in different ways, which at times, has required a tailored response.

Our COVID-19 response has been informed foremost by the College's mandate to oversee the profession and protect the public, while still recognizing that many registrants have faced professional, financial, and personal challenges associated with the pandemic. In March 2020, we extended the annual renewal deadline to August 31, 2020. As the pandemic continued, the College went on to exempt all occupational therapists from completing the 2019 Professional Development Plan and extended the 2020 Self-Assessment and Prescribed Regulatory Education Module (PREP) due date to December 31, 2020. Recognizing the timely subject matter (Managing Risks) and the importance of reviewing registrant competency to ensure the public receives ethical, safe, and competent care from occupational therapists, we continued to release the 2020 QA tools in June and included a preface about COVID-19 for the PREP on "Managing Risks in Occupational Therapy Practice." After suspending Peer and Practice Assessments (PPA) earlier in the pandemic, the College also resumed PPAs in November 2020 which are now conducted virtually.

Guidance documents for delivery of occupational therapy service were produced and released, including: *Guidance on Occupational Therapy Services During COVID-19* and *COVID-19 Return to Work Guidance for Occupational Therapists*, which were developed in collaboration with the other rehabilitation Colleges to help achieve consistent reopening guidance.

Two webinars were created to provide guidance on expectations for the delivery of occupational therapy services during the pandemic: April 16, 2020, [COVID-19 and Occupational Therapy](#) and June 4, 2020, [Gradual Reopening – COVID-19 and Occupational Therapy](#).

#### Standard 6

In support of the Government of Ontario's efforts to address health care staffing shortages, the College participated in the process to recruit former health care workers—who were retired or on leave—to voluntarily return to the workforce during the pandemic. We promoted this initiative directly to current and past registrants and adjusted processes to facilitate rapid registration at no extra cost. We set up a process to issue temporary registration to retired occupational therapists to help address potential health human resource shortages in the province as requested by the Ministry of Health. In addition, we worked with our associations to facilitate a low-cost option for purchasing liability insurance for those OTs who responded to this call. The College also helped promote new Ontario Health Workforce Matching Portal when it launched in April 2020.

In June 2020, the College asked its registrants to help evaluate the College's early COVID-19 pandemic response. More than 500 registrants completed the survey and provided thoughtful comments and feedback, which led to enhancements in message delivery for both the communications and practice teams.

The College was in regular communication with our exam provider, the [Canadian Association of Occupational Therapists](#), regarding the National Occupational Therapy Certification Exam. That assisted with decisions regarding the exam's deployment during the pandemic.

We also communicated with universities about the impact of COVID-19 on student practical experiences and the implications for future registration. This extended to communication with occupational therapist regulators from other provinces, as well as the Academic Accreditation Council.

The College collaborated on two webinars with the [Ontario Society of Occupational Therapists](#). The goal was to provide guidance to OTs on key COVID-19 related developments in the auto insurance sector and hospital settings.

In partnership with our professional health regulatory partners, the College participated in a Citizen Advisory Group (CAG) focus group on the resumption of regular healthcare services. The feedback received helped ensure the patient/client voice informed the activities and guidance provided on this topic.

#### Standard 7

We recognize that the public is better protected through professionals' access to accurate and timely information, which we were able to achieve throughout the pandemic, and this is ongoing. Initially all programs at the College were impacted and staff pivoted to ensure we could provide a valuable and consistent conduit of information between the Ministry and registrants regarding the unfolding pandemic. Our published guidance and COVID-19 webpage were created in alignment with other Colleges and through significant collaboration when required.

Sharing timely information and responding quickly to inquiries about appropriate practice and College expectations were and continue to be critical steps to ensure safety during the pandemic. The dedicated [COVID-19 website section](#) was created to provide access to key resources, directives, and guidance. The page is regularly updated as new information and resources become available; a vaccine information section being the most recent significant addition. The College has also provided information about relevant policies, practices, and developments through eblasts, social media posts and webinars.

On the College's COVID-19 webpage, we highlighted key government and Public Health Ontario resources for the public that addressed, for example, what to do if you are sick, and how to recognize symptoms. The College also provided information on mental health resources and developed a public FAQ to answer questions about what patients and clients can expect when receiving virtual care and service in-person during the pandemic.

As we move through 2021, we will continue to work with partners to provide timely information and guidance, including the distribution of vaccination information as requested by the Ministry and Ontario's Public Health Units.

### **GOVERNANCE REFORM**

#### Standard 5

Governments around the world, including provincial governments across Canada, are scrutinizing self-regulated professions to ensure they are acting in the public interest. The College has been reviewing trends and best practices with respect to governance in professional regulation with a view to strengthening public trust in regulatory institutions and their processes. Improving how the College is governed will strengthen our protection of the public and enhance public confidence in the regulatory system. In addition, the College will be taking active steps to achieve reform with the current legislative framework where flexibility exists within our bylaws.

#### Standard 6

The College has been engaged with the regulatory community, particularly the work of the College of Nurses and their governance recommendations. Based on this information and information from our environmental scanning, the College underwent a governance review with an external consultant who presented several recommendations for improvement. In 2020, Council voiced support for the plan to implement the College's governance review project by being proactive and will be taking active steps to achieve reform within the current legislative framework where flexibility exists within our bylaws. By reflecting the emerging best practices in regulatory governance, as seen across different regulators in different provinces, Council felt that these changes are an important opportunity to demonstrate the College's ongoing commitment to the public and our ability to adapt to a rapidly changing healthcare landscape and best practices in governance.

#### Standard 7

A governance committee was formed to address changing public and regulatory expectations on governance structure within our legislative framework. In response to our committee work, and consultant engagement, processes are underway to achieve the following changes within the next three years:

1. **Reduction of Council size:** From the current 18 members to 12-14 (6 professionals, 1 academic and 5-7 public members)
2. **Council composition:** Striving for a balanced number of public and professional members.
3. **Selection of Council:** Registrants seeking election to the Council will be screened based on an individual's skills and competencies and these appointments will be codified through an election. College will also introduce a transparent, independent governance process to oversee the recruitment, selection, evaluation and orientation and training for both Council and Committee members.
4. **Separation of Council and Statutory Committees:** As much as it is permitted, the College will recruit professional members and, members of the public (who are not public appointees appointed by the Lieutenant Governor in Council) to College committees to represent the public voice.
5. **Role of the Executive Committee:** Create more focused standing committees of Council (Finance, Audit and Risk; Governance) and redefine role of Executive Committee to focus on only urgent or emergency matters.
6. **Changes of titles and terminology:** Council will be known as the Board of Directors and the President and Vice-President will be known as Chair and Vice Chair to better reflect the fundamental role of the positions.

Outcomes to date include:

1. Convened a Governance Committee to develop and implement all governance changes
2. Updated terms of references for all statutory and non-statutory committees
3. Changed bylaws to improve eligibility for Council positions, including a cooling off period
4. Executive Committee role reduced to matters of urgent need
5. Creation of a new Finance, Audit and Risk Committee
6. Added elections, nominations, appointments to the restructured Governance Committee.

#### **ENTRY TO PRACTICE**

#### Standard 5

The public expects, and requires, that only qualified occupational therapists are registered with the College and thus able to practice in Ontario. Entry to practice takes many forms, from new graduates of accredited universities, people educated out of country, those who want to re-enter practice after an absence, and those moving within Canada. Reducing barriers to enter the profession is an important objective of the Registration department. College registration options include a general practicing certificate, a provisional certificate for new graduates, and a refresher program for those wishing to re-enter. All candidates must show they have met the education requirements, are required to pass a national exam, provide a vulnerable sector check, and if under a provisional licence must have a practice supervisor until they successfully complete the exam. For those who have not practiced for 600 hours over the last 3 years, they complete a refresher program of a determined length and with a pre-approved learning plan, before being offered a certificate of registration. For an occupational therapist residing out of province who is looking to treat a client in Ontario, a temporary registration is also available for four months with a limit of one per 12-month period. Fees for registration are obtained at renewal or application and are structured as an annual fee, or by quarter for those entering after the renewal period. Refunds in the first 3 months of the year are available. All these registration policies and programs assist to remove barriers to entry, and to expedite the registration of qualified applicants.

#### Standard 6

Achieving Standard 5 requires significant collaboration with other stakeholders. We partner with the Ontario universities and provincial association through a group called Occupational Therapy Ontario Collaborative and meet semi-annually to discuss entry requirements and education trends.

In partnership with other occupational therapy regulators across Canada in a group called ACOTRO (Association of Canadian Occupational Therapy Regulatory Organizations), several entry-to-practice objectives are met. First, ACOTRO sponsors and manages the Substantial Equivalency Assessment System (SEAS) which is the channel by which internationally educated OTs enter practice in Canada. SEAS assists international applicants and the Colleges to confirm education equivalency, assesses competency and skills, directs the need for skills upgrading or additional practice experience, facilitates the applicant's path to the national exam, and links the applicant to the appropriate provincial College. This process allows the College to confidently register internationally educated applicants after they have completed the SEAS process. Labour mobility is enhanced by our connection with ACOTRO as registrants of one occupational therapy College can join another in a new province through a connected process aimed at reducing time and barriers. This process was established with ACOTRO and continues to be used today. Collaboration with ACOTRO helps to harmonize registration requirements as possible. A future project with ACOTRO will be looking at the re-entry (or refresher programs) across Canada to review best-practice for allowing former registrants to re-enter after they no longer meet the currency requirements. Another upcoming ACOTRO project upcoming pertains to jurisdiction and the removal of barriers to virtual practice. With planned implementation in early 2021, the initiative will allow registrants in one province to be able to provide virtual services to clients in other provinces without having separate registrations. Our Registrar is the current president of ACOTRO, and meetings are held quarterly.

Over the past several years, we have worked with our national university programs and our national occupational therapy association to obtain federal funding to develop one set of national competencies. These competencies will be completed this year, and will be used to educate occupational therapy students, for the national entrance to practice exam and during practice through the quality assurance program. We have not had such a comprehensive competency document prior to this, and many different documents were utilized across the country.

The administration of our National Occupational Therapy Certification Exam is a collaboration with both ACOTRO and the Canadian Association of Occupational Therapists, (CAOT). CAOT is the third-party provider of the exam and accredits the university programs. Oversight of the administration of the national exam is completed with ACOTRO. Our Registrar participates on the Exam Oversight Committee as well as the exam working group committee as the national representative. CAOT manages the exam and provides the outcomes and trends to the Colleges for review and registration purposes. College Registration policy only permits three attempts at the national exam, which is the consistent practice across Canada. The College remained informed and provided feedback regarding changes to exam scheduling and process (virtual) during COVID and communicated this to registrants and future registrants as it impacted our provisional class of registration and timing.

Annually we report to, and meet with, the Ontario Fairness Commissioner (OFC) about our registration practices and receive feedback about the work we are doing to ensure that all qualified applicants will be able to be registered and thus practice occupational therapy in Ontario. The OFC is informed of our SEAS process, and the work we are doing with ACOTRO on cross-jurisdictional practice, labour mobility, and the refresher program for re-entry.

Registration data is collected based on the Canadian Institute of Health Information (CIHI) criteria and contributed to CIHI on an annual basis. These contributions support development of a mutual dataset to inform workforce planning. At the end of 2020 meetings with CIHI took place to discuss revising the data collection for registration to make the categories more applicable to occupational therapy and to improve the registrant database for public users.

We have, with ACOTRO and Veterans Affairs Canada Occupational Therapists, developed a mutual understanding of how to manage registration of occupational therapists who work for this federal agency, which provides services on a national basis. This national process to facilitate appropriate registration for occupational therapists who work in multiple provinces will simplify and streamline the process for all involved, without overregulating.

During the pandemic, we worked collaboratively with the Health Workforce Regulatory Oversight Branch to support emergency management. Information was communicated regarding current, retired, and out-of-province occupational therapists and the College provided no-cost temporary registration and facilitated insurance coverage to help with health resource planning.

Lastly, we are an active member of the Ontario Regulators Access Consortium (ORAC) where we share best practices about registration practices for health and non-health regulators.

#### Standard 7

We have achieved the following outcomes in 2020 in collaboration with our system partners:

1. OTOC – discussions regarding virtual fieldwork placements and virtual student supervision to reduce barriers to students achieving their occupational therapy education requirements during COVID.
2. ACOTRO –
  - a. Developed a new policy (pending implementation) on jurisdiction for virtual practice, early engagement in a project to review and revise the refresher program.
  - b. Developed a draft set of competencies with national partners
  - c. Shifted international assessments (SEAS) to a virtual format to manage during the pandemic.
3. CAOT – Accommodated ongoing completion of the National Occupational Therapy Certification Exam with support for timing and format changes (in-person and virtual).
4. Veterans Affairs – Developed a national process to facilitate appropriate registration for occupational therapists who work in multiple provinces.
5. Health Resource Regulatory Oversight Branch - Removed barriers for retired and out-of-province previous registrants to re-enter practice during the pandemic.

## **PSYCHOTHERAPY**

#### Standard 5

In December 2019 the controlled act of psychotherapy was proclaimed for occupational therapists. This was an extensive project that spanned more than a decade. The public expects and requires occupational therapists practicing psychotherapy to be competent and skilled. While occupational therapists are trained to assist clients with mental health challenges as a general part of their education, providing psychotherapy carries an elevated level of risk that requires additional practice supports, collaboration, communication, and clarification of the skills and competencies needed. Occupational

therapists in the earlier stages of their education and training also require a practice supervisor or mentor, and this has been outlined to registrants in practice documents, communications, and outreach activities.

The College sought ways to collaborate with system partners about the controlled act of psychotherapy. OTs are one of the six regulated health care providers granted the authority to provide the controlled act of psychotherapy. Controlled acts have elevated risks associated with them and the College takes steps to reduce the likelihood of risks occurring. Here are some of the ways the College worked with system partners in 2020 to ensure the safe delivery of psychotherapy:

Activity	Impact for Registrants	Impact for Clients
<p><b>System Partner: Other Regulators</b>                      Collaborated with several other regulatory colleges with members also having the authority to provide the controlled act of psychotherapy regarding supervision expectations.</p>	<p>Clear and consistent guidance with registrants clarifies supervision expectations when entering psychotherapy practice. Aligning with other regulators creates a common understanding for registrants and the system.</p>	<p>Clients accessing psychotherapy services will have more consistency in the expectations and arrangements between providers and their supervisors. This may also facilitate OTs to enter into supervisory agreements with highly knowledgeable supervisors to mentor their safe practice.</p>
<p><b>System Partner: Institutional Stakeholder</b>                      Insights provided by institutional stakeholders at the federal and regional level identified opportunities to provide clarification to occupational therapists providing psychotherapy.</p>	<p>These insights were used to create the December 2020 College newsletter's Case of the Month entitled "<a href="#">Competence in Psychotherapy</a>" which uses a hypothetical practice example to demonstrate how an OT can transition into psychotherapy practice with the required competence to do so. This was distributed to all registrants.</p>	<p>Clients receive safe and effective services with OTs who have the required competence and training.</p>

**Standard 6**

The development of the controlled act of psychotherapy required significant collaboration with the regulators for psychotherapists, psychologists, physicians, nurses, social workers, and social service workers. As a result, the controlled act of psychotherapy was defined, and the meaning of psychotherapy activity or service was consistently communicated to registrants of the colleges and the public.

Examples of how The College maintains cooperative and collaborative relationships to ensure it is responsive to changing public expectations:

The College previously collaborated with the professional association to co-host a well attended webinar on psychotherapy that provided education regarding competence and other requirements for registrants who perform psychotherapy.

The College Practice Resource Service is available to provide private and confidential support to the public, occupational therapists, and others about occupational therapy practice in Ontario. To facilitate safe, ethical care, most calls to the practice service were responded to within the same day. This timely access allows ongoing opportunities to clarify expectations when receiving psychotherapy from an occupational therapist. Trends from inquiries were identified and shared internally and with regulatory partners to inform development of future educational resources.

Note: additional educational activities relating to psychotherapy were delayed due to pandemic priority and are reflected in the 2020/2021 workplan.

**Standard 7**

**Examples of how “The College responds in a timely and effective manner to changing public expectations”**

**On an individual level:**

The practice resource service directly responded to inquiries from members of the public in a timely manner (within the same day) that have questions pertaining to psychotherapy and OT practice.

The practice resource service responded to inquiries from registrants and other stakeholder in a timely manner (within the same day/within 24 hours) that have questions pertaining to psychotherapy and OT practice.

**On a collective level:**

The document entitled [The Controlled Act and Delegation](#) was updated in 2019 to reflect the legislative change that grants occupational therapists authorization to perform the controlled act of psychotherapy. This update clarifies to the public and other stakeholders the expectations for OTs performing the controlled act of psychotherapy

Initiation of a 2020/2021 project to enhance the Standards of Psychotherapy to continue to reflect current practice.

**Outcomes of this collaboration in 2020 included:**

1. Proclamation of the controlled act of psychotherapy for occupational therapists. Jan 1, 2020
2. Initiation of a 2020/2021 project to enhance the Standards of Psychotherapy to continue to reflect current practice.
3. Occupational therapists have improved understanding of the expectations of practice via the webinar to registrants regarding psychotherapy practice.

**TRUTH AND RECONCILIATION**

**Standard 5**

In 2015 the Truth and Reconciliation Commission (TRC) released its final report, which included 94 Calls to Action. These Calls to Action offer direction on where systemic change is needed to further reconciliation between Canadians and Indigenous Peoples. Of relevance to the College is the section on Health including Calls to Action 18-24. These parts of the document address the health disparities faced by Indigenous Peoples and acknowledge that poor health outcomes are linked to the history of colonization in Canada. Recommendations for how to begin addressing these gaps included increasing the number of Indigenous professionals working in health care.

The public expects occupational therapists to be professional and sensitive to the needs of all clients. Building trust with the Indigenous community will help facilitate positive and effective health care experiences. Reducing barriers to service delivery may further reconciliation.

**Standard 6**

To advance our efforts in Truth and Reconciliation, the College has engaged with Indigenous leaders to develop and revise a Land Acknowledgement statement, used for all Committee and Council meetings. This was done to raise awareness of indigenous issues within Ontario. This statement was revised during the pandemic to represent the virtual work of staff and the location of committee members throughout the province. With help from the Indigenous leaders, in 2020 we revised our renewal process to gather Indigenous-registrant data. See our page: [Supporting Indigenous Communities](#).

In October 2020 our Council engaged in an education session on Indigenous history and health, which provided further recommendations for us to consider, including connecting with indigenous occupational therapists ([See the Council Highlights](#)).

Our engagement with Indigenous leaders and the relationship we have developed with them will continue to inform our ongoing work at building and restoring trust with the Indigenous community, and further our intentions to provide staff education and develop registrant resources and information. We plan to continue the conversation with our Indigenous registrants and to work with our university partners and our national association to address the need to engage more people of Indigenous descent to enter the profession of occupational therapy.

#### Standard 7

Outcomes in 2020 include:

1. Land acknowledgement developed and revised during the pandemic. This acknowledgement has been introduced for all Council and Committee meetings.
2. Collection and validation of Indigenous-registrant data at renewal.
3. Council education was completed in October, with more actionable items recommended.

### **DRIVER SAFETY**

#### Standard 5

The safety of drivers in Ontario is a practice concern that impacts us all. Occupational therapists are front-line professionals who can provide valuable information to clients, their families, healthcare teams, and the Ministry of Transportation regarding safe driving. Many occupational therapists also work to specifically assess high-risk drivers and provide rehabilitation to help people to safely continue or resume driving considering a disability or health event.

#### Standard 6

As concerns about safe driving escalated, the College worked with the Ministry of Transportation of Ontario regarding changes to the legislation regarding the reporting of unsafe drivers and specifically discretionary reporting by occupational therapists. Today, we continue to collaborate twice annually with the Driver Improvement Office's Program Advisor regarding the number of reports received from occupational therapists, trends in reporting, changes to the process/forms that occupational therapists use.

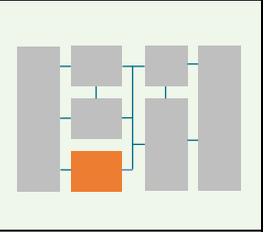
We also continue to collaborate with the Ministry and registrants to ensure occupational therapists have the most updated information to exercise discretionary reporting responsibilities and use these contacts to inform changes to College documents and registrant education as appropriate.

#### Standard 7

Outcomes for 2020 included:

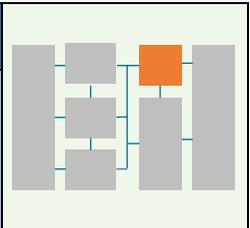
1. Continued collaboration to inform the ongoing role of occupational therapists in reporting unsafe drivers.  
Communicating the updated reporting tool to registrants.

DOMAIN 4: INFORMATION MANAGEMENT	
<b>Standard 8</b> Information collected by the College is protected from unauthorized disclosure.	
<b>Measure</b>	8.1 The College demonstrates how it protects against unauthorized disclosure of information.
<b>Required Evidence</b>	a. The College has and uses policies and processes to govern the collection, use, disclosure, and protection of information that is of a personal (both health and non-health) or sensitive nature that it holds.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially   No
Insert a link to policies and processes <b>OR</b> provide brief description of the respective policies and processes. <b>Privacy at the College is protected as follows:</b> <b>The Human Resources material has a confidentiality policy, and forms are signed by all staff.</b> <b>All committee and council members review and sign confidentiality agreements annually. Confidential COTO email addresses are provided to enable secure communications and transmission of College materials.</b> <b>Confidentiality provisions and associated fines from the RHPA are included in onboarding and training materials.</b> <a href="#">Privacy policy is listed on the website.</a> <b>The Investigations and Resolutions program of the College applies privacy practices and processes at all stages of the investigation, from intake to disposal including not sharing personal identifiers or sensitive information through the College’s telephone and messaging system and sharing meeting packages (using a secure document sharing platform) with the ICRC in a manner which prevents them from downloading the materials onto their personal computers. ICRC access to the meeting packages is removed once its written reasons for its decision is issued.</b> <b>The Quality Assurance program material about registrants is anonymous, with registrant’s names being applied to letters and forms only after being signed by committee members.</b> <b>The Practice Service is also anonymous, with names or contact information of inquirers retained for response purposes only.</b> <b>The College has an internal privacy policy with steps for managing a breach of privacy, including a log of breaches, a report outlining the events, and copies of documents sent to involved individuals. Managers have all been trained on managing breaches in their programs.</b> <b>The College is monitored 24x7 for system failure, ransomware detection and cyber attacks employing with several security tools and is only accessible through a virtual private network. Confidential and sensitive information is received and shared through secure channels.</b> <b>The College has a document retention policy.</b>	



All Council and Committee packages include information about virtual meeting conduct, including proper destruction of meeting materials.  
The Deputy Registrar is the designated Privacy Officer.

DOMAIN 5: REGULATORY POLICIES	
Standard 9	
Policies, standards of practice, and practice guidelines are based in the best available evidence, reflect current best practices, are aligned with changing public expectations, and where appropriate aligned with other Colleges.	
Measure	9.1 All policies, standards of practice, and practice guidelines are up to date and relevant to the current practice environment (e.g. where appropriate, reflective of changing population health needs, public/societal expectations, models of care, clinical evidence, advances in technology).
Required Evidence	a. The College has processes in place for evaluating its policies, standards of practice, and practice guidelines to determine whether they are appropriate, or require revisions, or if new direction or guidance is required based on the current practice environment.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to document(s) that outline how the College evaluates its policies, standards of practice, and practice guidelines to ensure they are up to date and relevant to the current practice environment <b>OR</b> describe in a few words the College’s evaluation process (e.g. what triggers an evaluation, what steps are being taken, which stakeholders are being engaged in the evaluation and how).</p> <p><b>The College has a document framework, workplan, and detailed review process to track documents in need of revision. The framework outlines the review process including the steps required to bring a document forward for changes. The framework and workplan are internal documents that are utilized by our Practice Subcommittee.</b></p> <p><b>Practice Subcommittee is an innovative group of occupational therapists and appointed Council members from across the province that represent a range of practice settings and experience. This varied group of occupational therapists meet regularly with the College Practice team to provide “boots on the ground” awareness of the current practice environment. While Practice Subcommittee do not have decision making authority, they provide valuable insight into how COTO resources relate to practice environments.</b></p> <p><b>For document review and updating, the following process is followed:</b></p> <ul style="list-style-type: none"> <li>• <b>Standards of Practice are reviewed every 5 years, other documents as needed based on practice data / inquiries.</b></li> <li>• <b>Staff record in real time all the external inquiries that the College receives through the Practice Service. This data is analyzed monthly to identify key trends and any gaps in knowledge. Resources are developed and revised based on this intelligence. e.g., educational outreach, practice examples, questions and answers or revisions to existing documents.</b></li> </ul>	



- Policies all have review and updated dates indicated, and are brought forward for review based on relevance, priority and emerging trends requiring change. Many policies were reviewed and updated in 2020 to implement plain language.
- Standards are sent for registrant and stakeholder consultation with each revision. Opportunities to provide feedback are promoted via registrant newsletter, website posting and social media. Online survey tools are used to facilitate the process, with materials provided in French and English. Alternative methods for providing input are offered to ensure accessibility. As appropriate, consultations are also shared on both the [Ontario Health Regulators](#) 'Consultations' web page and via the Citizen Advisory Group newsletter to promote public input. Additional opportunities to participate in College decision-making through public input are noted on the College web page '[Public Input to College Decision-Making](#)'. Consultation outcomes are shared on the College's [dedicated 'Consultations' web page](#). All standards and expectations for practice are approved by Council.
- Standards revised in 2020: the Code of Ethics, Standards for Acupuncture, Standards for Assessment
- Other documents revised in 2020: Guide to Controlled Acts and Delegation.

The College uses a document development process to identify and track revisions and the status of documents. These are operational tools, not publicly available.

<p><b>Required Evidence</b></p>	<p>b. Provide information on when policies, standards, and practice guidelines have been newly developed or updated, and demonstrate how the College considered the following components:</p> <ul style="list-style-type: none"> <li>i. evidence and data,</li> <li>ii. the risk posed to patients / the public,</li> <li>iii. the current practice environment,</li> <li>iv. alignment with other health regulatory Colleges (where appropriate, for example where practice matters overlap)</li> <li>v. expectations of the public, and</li> <li>vi. stakeholder views and feedback.</li> </ul>
<p><b>College Response</b></p>	<p>The College fulfills this requirement:    <b>Yes X</b>    Partially    No</p>

For two recent new policies or amendments, either insert a link to document(s) that demonstrate how those components were taken into account in developing or amending the respective policy, standard or practice guideline (including with whom it engaged and how) **OR** describe it in a few words.

**Overview of the Typical Standard and Practice Document Review and Updating Process:**

- Practice Subcommittee (reporting to Council via the Executive Committee) or Patient Relations (reporting to Council) use a document framework and workplan to identify standards and documents that require revision. The Patient Relations Committee is responsible for revisions to the following: Professional Boundaries, Code of Ethics, Prevention of Sexual Abuse, and Conflict of Interest. Practice Subcommittee manage all other practice resources and documents on the website.
- Before review, the intent to review is approved by the Committee, Executive and / or Council.
- A Document Framework is used to guide the change process.
- The process typically involves an environmental scan of other Colleges' information, and internal scan of use of the existing document through website analytics, practice enquiries, quality assurance and complaints.

- The results of environmental scanning initiate the changes which are brought in draft form to Committee or Council. All Standards require stakeholder consultation that include the public.
- Final changes are then implemented and approved by Council.
- Documents are then translated into French and posted online.
- Changes are incorporated into any presentation materials.
- The update is communicated online and to registrants.
- The communications plan typically also includes targeted Case Studies in a Newsletter, or a webinar.

#### Example 1: Standards for Assessment

##### Evidence and Data

[Briefing note to Council includes a summary of the internal and external environmental scans conducted \(Page 137\):](#)

**External Scan** – College staff completed an external scan of other regulatory bodies’ documents pertaining to assessments. Despite variations in approaches to presenting Standards, staff found that the expectations outlined in the Standards for Assessments align with the expectations of other regulated health professionals. This finding dispelled some myths and perceptions that OTs were being held to a higher standard of practice.

**Internal Scan** – An internal scan involved the review of the Practice Program, and Quality Assurance Program data and a review of common ICRC pertaining to assessments. A review of the ICRC case data also identified similar themes interrelated with assessment.

**Content & Format Review** – Practice Subcommittee reviewed the content and format of the Standards for Assessments, Subcommittee recommended that significant changes were required to remove outdated references and reformat the Standards and change the title to align with the current publication formats.

**Website Analytics** – reviewed and “key words” were identified for how this document is searched.

##### Risk Posed to Patients / the Public

**Public Interest:** As stated in the Council Briefing Note: Assessments are an integral part of occupational therapy practice and serve as the foundation for clinical decisions, professional opinions, and recommendations. Occupational therapist assessments can negatively impact the public if not performed by a competent practitioner. Occupational therapists performing assessments are expected to comply with the Standards for Assessments. The Standards for Assessments outline minimum expectations to ensure the public is receiving safe, ethical, competent assessments from Ontario occupational therapists.

##### Current Practice Environment

**Practice Subcommittee:** In addition to the environmental scan and data analysis, the College also utilizes a non-statutory practice subcommittee whose members are registered OTs from across Ontario, and includes two council members, who provide valuable input into the development or revision of the Standards. Subcommittee identifies gaps and reflects the current practice environment ensuring that the Standards also reflect the public interest and meets the minimum expectations for consistent practice.

##### Alignment with other Colleges

**Refer to criteria 1. External Scan:** The external environmental scan supported that the Standards align with other regulatory Colleges expectations for practice with respect to accountability for the assessment components of their practice including having the competence, skills, knowledge, and judgment to perform the assessment activities safely and ethically.

**Expectations of the Public**

Inquiries to the Practice Service from the public, the use of Public Members on Council and Committee and complaints received through investigations and resolutions are used to look at common themes that emerge from the public lens. The public consultation was also used to garner any required document changes for public expectations for OT assessment.

**Stakeholder Views and Feedback**

**Consultation:** Our Document Framework outlines that Standards revisions require broader public and stakeholder consultation. This consultation was available on the Ontario Health Regulators website to obtain feedback from the public to identify any concerns to further examine.

**Example 2: Discontinuing Service**

**Evidence and Data**

In summer 2020 an environmental scan was conducted related to the document that outlines the expected processes for discontinuing occupational therapy service. The environmental scan includes data driven insights from both internal and external sources including:

**Internal Data:**

- Analysis of Inquiries to the Practice Resource Service
- Data from Investigations, Complaints and Resolutions Program
- Data from the Quality Assurance Program / Peer and Practice reviews with registrants
- Website analytics on views and download activity of the document

**External Data:**

Researched approaches by other health regulators related to discontinuing services to inform the revision and alignment of this document.

A summary of the data that formed the foundation of the revisions can be found in the briefing note that was provided to Council at: [Council Meeting Package – January 28, 2021 \(p.234\)](#).

**Risk Posed to Patients / the Public**

**Public Interest:** As stated in the Council Briefing Note: Discontinuing services improperly can have detrimental impacts to clients. Revisions to this document furthers the College’s mandate for public protection by ensuring professional standards and resources are up-to-date and reflect evolving practice so occupational therapists are practicing ethically, safely, and effectively.

**Current Practice Environment**

**Practice Subcommittee:** Practice Subcommittee contributed a great deal to this revision by informing key messages and providing practice examples. Council members, both occupational therapists and academic members, as well as public members, also provided valuable feedback and approval of the final document.

Alignment with other Colleges

Refer to criteria 1. External Scan  
Expectations of the Public

**Fall 2020 Public Stakeholders: Clients & Caregivers:** Early consultation with the Citizen Advisory Group (CAG) resulted in a new client perspective to this resource (<https://citizenadvisorygroup.org/>). A tailored set of questions were asked to clients and caregivers in this focus group about ending occupational therapy service.

The CAG Report (Appendix C) describes the discussion questions and recommendations to the document. An insight that emerged from this consultation is the preferred “patient – provider partnership model” that includes transparent and collaborative decision making between client and therapist. This theme is woven throughout the revised version of this resource and resulted in the addition of a section entitled: [The Client and Caregiver Perspective](#).

Following revisions from Subcommittee and the CAG, a plain language review was completed to improve the accessibility and readability of the document for the public.

Stakeholder Views and Feedback

**Winter 2021 Public & Registrant Stakeholders:** COTO’s Council is made up of both public and professional members. This updated document was reviewed by Council early 2021 for stakeholder feedback prior to posting on public website and disseminating to all registrants. In March 2021 a webinar will be hosted to introduce the new resource and to help registrants apply this to their practice.

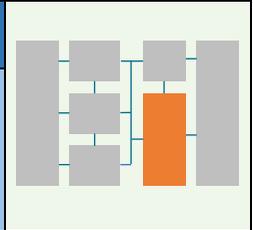
Overview of the Typical Policy Review and Updating Process

For the three main areas of the College that are not involved in the development of Standards of Practice for registrants; Registration, Quality Assurance and Investigations and Resolutions, each of these areas work with their respective committees to develop and review policies pertaining to their processes. The Registration Policies are developed mostly with the applicants in mind as the main users of the policies, and these inform and explain registration requirements. They are reviewed for plain language and posted on the website. These are normally reviewed and updated on a 3-year cycle or when required.

Much information is provided on the website about the Investigations and Resolutions process and this is aimed at both the public making a complaint and the OT who may be the subject of the complaint. This information is written in a way to promote clarity and readability. Internal policies used to describe processes are developed in conjunction with the committee affected, in this case: the Investigations Complaints and Reports, Discipline or Fitness to Practice Committees.

Similarly, there is a lot of information on the website about the Quality Assurance processes that is written to be understandable and clear. QA policies are determined with the QA committee and are reviewed when processes or policies change. These are communicated through the website to registrants and the public.

DOMAIN 6: SUITABILITY TO PRACTICE	
<b>Standard 10</b> The College has processes and procedures in place to assess the competency, safety, and ethics of the people it registers.	
<b>Measure</b>	10.1 Applicants meet all College requirements before they can practice.
<b>Required Evidence</b>	a. Processes are in place to ensure that only those who meet the registration requirements receive a certificate to practice (e.g., how it operationalizes the registration of members, including the review and validation of submitted documentation to detect fraudulent).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
Insert a link that outlines the policies or processes in place to ensure the documentation provided by candidates meets registration requirements <b>OR</b> describe in a few words the processes and checks that are carried out:  <b>All applicants must apply and provide supporting documents to the College for review prior to being registered. This ensures they meet registration requirements. Examples of required documentation includes, but is not limited to, the following:</b> <ul style="list-style-type: none"> <li>• <b>Transcripts to provide evidence of completion of education</b></li> <li>• <b>Regulatory history forms from other jurisdictions to provide evidence of good standing</b></li> <li>• <b>Letter of employment to provide evidence of currency to show recent practice and knowledge in the profession</b></li> <li>• <b>Vulnerable sector check for suitability to practice</b></li> <li>• <b>Evidence of work eligibility (citizenship, work permit, etc.)</b></li> <li>• <b>Evidence of successful completion of the National Occupational Therapy Certification Examination (NOTCE).</b></li> </ul> Insert a link <b>OR</b> provide an overview of the process undertaken to review how a college operationalizes its registration processes to ensure documentation provided by candidates meets registration requirements (e.g., communication with other regulators in other jurisdictions to secure records of good conduct, confirmation of information from supervisors, educators, etc.):  <b>Documents from third parties must be sent directly from the source to ensure authenticity.</b>  <b>Provisional registrants who have not passed the exam but are currently registered to write the next available sitting must practice under the supervision of a College approved supervisor until successful completion of the examination.</b>  <b>Internationally educated occupational therapists are required to complete the Substantially Equivalent Assessment System (SEAS) to ensure that their education is substantially equivalent to a Canadian program in occupational therapy.</b>	



A labour mobility support agreement is in place to manage the policies around applicants who come to Ontario from other Canadian jurisdictions. These processes are reviewed nationally on a regular basis and common requirements and forms are in place to facilitate a fair and transparent process. Regular discussions with all national OT regulators occur and many requirements have been harmonized to facilitate national mobility.

Applicants who do not meet the currency requirement at the time of application must complete a refresher program which is determined based on how long they have been out of the profession.

[Clinical Re-Entry Program Information Package](#)

Any applicant who does not meet registration requirements as stated in the Ontario Regulation 226/96: General, under the *Occupational Therapy Act, 1991* is referred to the Registration Committee for review and decision.

Calendar 2020: January 1, 2020 to December 31, 2020

Cases Referred:

10 Cases referred to Registration Committee (RC) / 505 applications submitted  
= 1.98% of applications were referred to RC in Calendar 2020

Refresher Programs Referred:

11 new refresher programs in 2020 / 505 applications submitted  
= 2.17% of applications were referred to RC in Calendar 2020

Refresher Programs Completed:

6 refresher programs completed (including refresher programs started prior to 2020) / 11 refresher program ruling letters sent in  
= 54.5% of refresher programs were completed in Calendar 2020

The following is the further breakdown of Committee decisions:

Approval of Certificate

- a. 1 case resulted in Issue Certificate
- b. 1 case resulted in Issue Certificate with Undertaking (suitability to practice)
- c. 1 case resulted in Impose Terms, Conditions, Limitations

Further Education

**d. 4 cases resulted in Issue Certificate After Training**

**Refuse Application**

**e. 1 case was denied (additional exam attempt)**

**f. 2 cases had no decision, recommendation only**

*Additional comments for clarification (optional)*  
**There are plans for the College to review the current refresher program with other Canadian OT Regulators to update this and confirm if the current model remains best-practice.**

<b>Required Evidence</b>	b. The College periodically reviews its criteria and processes for determining whether an applicant meets its registration requirements, against best practices (e.g. how a College determines language proficiency).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No

Insert a link that outlines the policies or processes in place for identifying best practices to assess whether an applicant meets registration requirements (e.g. how to assess English proficiency, suitability to practice etc.), link to Council meeting materials where these have been discussed and decided upon **OR** describe in a few words the process and checks that are carried out.

[Registration policies are available on the College website.](#)

**All registration policies were reviewed and revised for plain language and design in 2020 and updated on the College website February 2021. The stats below pertain to the old version of the policies and next year’s reporting cycle will reflect revised policies in 2021.**

**Many of the registration requirements have been reviewed and harmonized across Canada for consistency. For example, when determining language requirements and processes, this has been decided by a national review and consensus. In addition, the requirements for currency have a national goal, with almost all provinces adjusting regulations to be consistent.**

**Many of the policies are used in daily operations of the College and therefore are relevant.**

Provide the date when the criteria to assess registration requirements was last reviewed and updated:

Policy	Website Views (Unique)	Policy	Website Views (Unique)
Policy on the Approval of Supervisors and Other Agents of the College	111	Examinations (8-60)	19
Criminal Record Screening of Applicants and Members (8-71)	89	Practising without Authority (8-140)	21
Language Fluency – Requirement (8-81)	78	Provisional Registration – Request for Deferral of Exam (8-150)	15
Currency – Annual Renewal (8-50)	75	Insufficient or Inadequate Documentation (8-110)	13
Determining Suitability to Practise at Registration (8-72)	49	Education and Fieldwork – Internationally Educated (8-21)	11
Provisional Registration – Request for Second Provisional Certificate (8-160)	10	Assessment of Qualifications (8-181)	44

<b>Currency – Initial Applicants (8-40)</b>	<b>42</b>	<b>Language Fluency – Exemption Request (8-90)</b>	<b>7</b>
<b>Access to Records (8-170)</b>	<b>29</b>	<b>Legal Authorization to Work in Canada (8-100)</b>	<b>7</b>
<b>Education &amp; Fieldwork – Canadian Educated Applicants (8-10)</b>	<b>24</b>	<b>Accommodation Requests in the Registration Process (8-190)</b>	<b>20</b>
<b>Liability Insurance (8-120)</b>	<b>24</b>		

*Additional comments for clarification (optional)*

**Policies that are subject to the most change would be policies that involve third parties such as police services, education credentialing services and universities. For many, annual review is undertaken.**

<b>Measure</b>	10.2 Registrants continuously demonstrate they are competent and practice safely and ethically.
<b>Required Evidence</b>	a. Checks are carried out to ensure that currency <sup>2</sup> and other ongoing requirements are continually met (e.g., good character, etc.).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No

Insert a link to the regulation and/or internal policy document outlining how checks are carried out and what the currency and other requirements include, link to Council meeting materials where documents are found and have been discussed and decided upon **OR** provide a brief overview:

[Ontario Regulations 226/96: General](#)

**Occupational Therapy Act, 1991 section 36(4) states the following:**

**List the experts / stakeholders who were consulted on currency:**

**The following are conditions of a general practising certificate of registration**

**The member must,**

- **Have completed at least 600 hours of service within the scope of practice of the profession in the previous three years, or**
- **Have successfully completed within the previous 18 months a refresher program accepted by the Registration Committee.**

Identify the date when currency requirements were last reviewed and updated:

**The College monitors currency requirements through self-declaration during the annual renewal process annually. The registration team follows up with registrants who self-identify under one of the following:**

- **incorrectly indicate they are new grads when they have been out of school for more than 18 months**
- **Incorrectly indicate that they have been registered for less than 3 years**

<sup>2</sup> A ‘currency requirement’ is a requirement for recent experience that demonstrates that a member’s skills or related work experience is up to date. In the context of this measure, only those currency requirements assessed as part of registration processes are included (e.g. during renewal of a certificate of registration, or at any other time).

<ul style="list-style-type: none"> <li>• <b>Incorrectly indicated that they have completed a re-entry program within the previous 18 months</b></li> <li>• <b>Registrants who have selected that they require a review of their currency hours.</b></li> </ul> <p>Describe how the College monitors that registrants meet currency requirements (e.g. self-declaration, audits, random audit etc.) and how frequently this is done.</p> <p><b>Registrants are asked suitability to practice questions each year at annual renewal and are required to self report any conditions that would affect their ability to practise safely and ethically.</b></p> <p><b>Starting in 2017, the College requires all applicants to submit a valid vulnerable sector check when applying regardless of whether they have been previously registered.</b></p>	
<p><i>Additional comments for clarification (optional)</i></p> <p><b>The College is embarking on an initiative to request anyone registered prior to 2017 to submit a valid vulnerable sector check. The goal is to have a vulnerable sector check for all registrants by December 31, 2022. Once this project is complete, the College will determine how to further monitor/audit for vulnerable sector checks ongoing.</b></p>	
<b>Measure</b>	10.3 Registration practices are transparent, objective, impartial, and fair.
<b>Required Evidence</b>	a. The College addressed all recommendations, actions for improvement and next steps from its most recent Audit by the Office of the Fairness Commissioner (OFC).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to the most recent assessment report by the OFC <b>OR</b> provide summary of outcome assessment report:</p> <p><b>The most recent assessment report of registration practices by the Office of the Fairness Commissioner (OFC) was received in 2018.</b></p> <p><b>The OFC found that since its last assessment COTO has implemented measures to achieve more transparent, objective, impartial and fair practices. There were no further recommendations for the assessment period.</b></p> <p>Where an action plan was issued, is it: Completed <input type="checkbox"/> In Progress <input type="checkbox"/> Not Started <input type="checkbox"/> <b>No Action Plan Issued X</b></p>	
<p><i>Additional comments for clarification (if needed)</i></p> <p><b>The College will continue to identify ways to achieve more transparent, objective, impartial and fair practices by identifying any potential procedural gaps for evaluating and monitoring third party assessment practices and plan to implement such procedures periodically.</b></p>	
<p><b>Standard 11</b></p> <p><b>The College ensures the continued competence of all active registrants through its Quality Assurance processes. This includes an assessment of their competency, professionalism, ethical practice, and quality of care.</b></p>	
<b>Measure</b>	11.1 The College supports registrants in applying the (new/revised) standards of practice and practice guidelines applicable to their practice.
<b>Required Evidence</b>	a. Provide examples of how the College assists registrants in implementing required changes to standards of practice or practice guidelines (beyond communicating the existence of new standard, FAQs, or supporting documents).
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No

Provide a brief description of a recent example of how the College has assisted its registrants in the uptake of a new or amended standard:

Name of Standard: **Standards for Assessment**

Duration of period that support was provided: **6 months, ongoing.**

Activities undertaken to support registrants: **Public consultation, answering of practice questions and inquiries about changes and updates, information about updates in monthly newsletter, updated information included updates in speaking engagements, Quality Assurance peer assessment updated to align with new standard, launch of registrant webinar for March 2021.**

% of registrants reached/participated by each activity: **300 participated in online consultation, 13 practice calls received regarding the updated document in the first 30 day period, 1652 website views since document launched, all registrants (6400+) receive the newsletter, Webinar (to cover two document updates) will be in March 2021.**

Evaluation conducted on effectiveness of support provided: **Beyond practice calls / emails and general feedback, specific feedback about the document after it is posted is not obtained but feedback following a webinar is completed via survey.**

Does the College always provide this level of support: **Yes X** No

**Another activity completed to connect registrant competency to documents is the annual PREP (online mandatory education module) which pulls in multiple standards into one learning tool. For example, in 2020 our PREP was on Risk Management, and was required to be completed by all registrants with as resulting 98%+ participant compliance. Following the PREP there were 1600+ responses to the feedback survey which indicated that:**

- **94.47% strongly agreed or agreed that the PREP module was relevant to their practice.**
- **88.94% strongly agreed or agreed that the PREP module raised issues present in their practice.**
- **91.26% strongly agreed or agreed that the PREP module increased their knowledge on managing risk.**
- **87.88% strongly agreed or agreed that the PREP module will positively impact their practice.**
- **78.84% strongly agreed or agreed they will implement at least one change from the PREP module to their practice.**

*If not, please provide a brief explanation: NA*

<b>Measure</b>	11.2 The College effectively administers the assessment component(s) of its QA Program in a manner that is aligned with right touch regulation <sup>3</sup> .
<b>Required Evidence</b>	a. The College has processes and policies in place outlining: <ol style="list-style-type: none"> <li>i. how areas of practice that are evaluated in QA assessments are identified to ensure the most impact on the quality of a registrant’s practice;</li> <li>ii. details of how the College uses a right touch, evidence informed approach to determine which registrants will undergo an assessment activity (and which type if multiple assessment activities); and</li> <li>iii. criteria that will inform the remediation activities a registrant must undergo based on the QA assessment, where necessary.</li> </ol>

<sup>3</sup> “Right touch” regulation is an approach to regulatory oversight that applies the minimal amount of regulatory force required to achieve a desired outcome. (Professional Standards Authority. Right Touch Regulation. <https://www.professionalstandards.org.uk/publications/right-touch-regulation>).

<b>College Response</b>	The College fulfills this requirement: Yes Partially <b>X</b> No
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List the College’s priority areas of focus for QA assessment and briefly describe how they have been identified **OR** link to website where this information can be found:

**Since 2016 the College’s Quality Assurance peer assessment program has been in redesign. In 2020, the selection step was finalized based on right-touch regulation and involves the categorization of registrants into risk areas. More registrants will be selected for QA participation from the higher risk areas identified. This was first piloted through the selection of registrants for a Peer Assessment in December 2020. All updates to the Quality Assurance Program, including Risk-Based Selection, are available [here](#).**

Is the process taken above for identifying priority areas codified in a policy: Yes  **No X**

*If yes, please insert link to policy*

Insert a link to document(s) outlining details of right touch approach and evidence used (e.g. data, literature, expert panel) to inform assessment approach **OR** describe right touch approach and evidence used:

**A vendor was selected through RFP to design the selection step. Their research and the development of the risk-based selection step was completed over 2019-2020. The results of their expert analysis is proprietary, but the outcome of their work is [posted online](#).**

Provide the year the right touch approach was implemented **OR** when it was evaluated/updated (if applicable):

**The right-touch selection step was implemented in 2020, with the first registrants selected to participate in December. The second stage of this process (screening from the selection step before the peer assessment) is currently in development with a targeted completion of October 2021.**

*If evaluated/updated, did the college engage the following stakeholders in the evaluation:*

- **Public** Yes **X** No  **Citizen Advisory Group, Planning Focus Group.**
- **Employers** Yes **X** No  **Employer OTs on Committee / Council / Registrants**
- **Registrants** Yes **X** No  **Survey with 1134 responses.**
- **other stakeholders** Yes **X** No  **College of Physiotherapists, Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO), HPRO**

Insert link to document that outlines criteria to inform remediation activities **OR** list criteria:

**Quality Assurance Committee uses a decision criteria and risk analysis approach to make decisions about remediation activities required of a registrant following non-compliance with a Quality Assurance requirement, or after a Peer Assessment. Historical information is also considered, along with a registrant’s response and demonstration of insight and change following the assessment.**

**In 2020, for Peer and Practice Assessments:  
90% of outcomes were take no action and 10% were issued a specified continuing education or remediation program (SCERP).**

**For Non-Compliance with annual QA Tools for 2020 (n=17 registrants):  
9 completed the tools late but before QAC committee meeting  
5 completed the tools as directed by QAC**

<p><b>1 was directed to complete the tools but resigned</b>  <b>2 were referred for a Peer Assessment (1 of which resigned).</b></p>	
<p><i>If the response is "partially" or "no", is the College planning to improve its performance over the next reporting period? Yes X No <input type="checkbox"/></i></p>	
<p><i>Additional comments for clarification (optional)</i></p> <p><b>When the second step is developed and finalized one policy will be developed to outline the entire selection process.</b></p> <p><b>The College has engaged a second vendor to design the middle step in the proposed three-step Quality Assurance process of participation in a Peer Assessment. While the first step is established based on risk, a middle step is required to further screen registrants to apply the right-touch principles of who may need more evaluation through a Peer Assessment. This work is underway, with a targeted pilot of June 2021 and completion and roll-out of October 2021.</b></p>	
<b>Measure</b>	11.3 The College effectively remediates and monitors registrants who demonstrate unsatisfactory knowledge, skills, and judgment.
<b>Required Evidence</b>	a. The College tracks the results of remediation activities a registrant is directed to undertake as part of its QA Program and assesses whether the registrant subsequently demonstrates the required knowledge, skill and judgement while practising.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to the College's process for monitoring whether registrant's complete remediation activities <b>OR</b> describe the process:</p> <p><b>Registrants are provided with notice of the intent to issue a remediation activity. Sometimes this notice prevents the need for the activity, as the registrant responds showing that they have addressed the outlined concerns.</b></p> <p><b>When remediation activities are required, the registrant is tracked internally for completion of the needed items. Missed deadlines or incomplete remediation participation by the registrant is brought back to committee.</b></p> <p>Insert a link to the College's process for determining whether a registrant has demonstrated the knowledge, skills and judgement following remediation <b>OR</b> describe the process:</p> <p><b>Depending on the remediation activity, registrants are either required to complete any outstanding tools and submit evidence of the same, write a reflection paper that is submitted and approved, participate in practice monitoring with a learning plan that is also submitted and approved, or have another peer and practice assessment after the remediation activities are completed to confirm that they now have demonstrated the knowledge, skills and judgement that were absent prior. At the highest risk, registrants may have Terms Conditions and Limitations imposed on their certificate of registration or may be referred to the Inquiries Complaints and Reports Committee for determination of non-compliance with the Quality Assurance Program.</b></p>	

Standard 12	
The complaints process is accessible and supportive.	
Measure	12.1 The College enables and supports anyone who raises a concern about a registrant.
Required Evidence	a. The different stages of the complaints process and all relevant supports available to complainants are clearly communicated and set out on the College’s website and are communicated directly to complainants who are engaged in the complaints process, including what a complainant can expect at each stage and the supports available to them (e.g. funding for sexual abuse therapy).
College Response	The College fulfills this requirement:    Yes <b>Partially X</b> No
<p>Insert a link to the College’s website that describes in an accessible manner for the public the College’s complaints process including, options to resolve a complaint and the potential outcomes associated with the respective options and supports available to the complainant:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Concerns or Complaints About an Occupational Therapist</a></li> <li>2. <a href="#">Complaints Investigation</a></li> <li>3. <a href="#">Report Concerns or File a Complaint About an OT</a></li> <li>4. <a href="#">Concerns About OTs: How the College Makes Decisions</a></li> <li>5. <a href="#">Alternative Dispute Resolution</a></li> <li>6. <a href="#">Information About Sexual Abuse</a></li> <li>7. <a href="#">Application for Funding for Therapy, Counselling and Related Non-Therapeutic Expenses</a></li> <li>8. <a href="#">Sexual Abuse Prevention</a></li> </ol> <p>Does the College have policies and procedures in place to ensure that all relevant information is received during intake and at each stage of the complaints process:    <b>Yes X</b>    No <input type="checkbox"/></p> <p><b>The College has a processes and procedures manual and checklists for investigations and resolutions staff to refer to at the various stages of the investigation to achieve this. One of the requirements of the process outlined is that investigations and resolutions staff review all information and documentation when received during the investigation of any case assigned, to ensure the information is complete and to ascertain if clarification or additional information or documentation should be requested. The College also has templates for emails and other written correspondence that provides information about the complaints process for complainants (including potential complainants) and registrants who are the subject of a complaint. Frequently enclosed with these templates are relevant sections of the <i>Health Professions Procedural Code</i>. The College additionally has an internal policy, approved by the College’s Council, that outlines the criteria that must be met for a complaint to be eligible for Alternative Dispute Resolution (ADR).</b></p> <p>Does the College evaluate whether the information provided is clear and useful:    Yes <input type="checkbox"/> <b>Partially X</b>    No</p> <p><b>The College periodically updates the information on its website about the complaints process to ensure they continue to be accurate and follow legislation and best practices. During the reporting period, an external legal audit of the ICRC’s operations was conducted and by the end of the 2020 calendar year, the College implemented 92% of the improvements suggested. The College includes a feedback box on its <a href="#">Concerns About OTs: How the College Makes Decisions</a> webpage asking if the information is helpful. All of the responses received during the reporting period answered in the affirmative and any comments provided confirmed the reader appreciated the information and found it helpful.</b></p>	

<p>If the response is "partially" or "no", is the College planning to improve its performance over the next reporting period?    <b>Yes X</b>    No <input type="checkbox"/></p>	
<p><i>Additional comments for clarification (optional)</i></p> <p><b>In January 2021, the College launched a complaint process feedback survey for complainants and registrants to anonymously complete once their matter is determined. Some of the questions asked specifically seek to evaluate whether the information provided about the College's complaints process was clear and useful. Additional materials, which underwent an external plain language review, explaining the complaints process were developed and launched in March 2021. These materials can be emailed to persons who make inquiries about the complaints process and are also enclosed with the complaint notice and acknowledgment letters mailed out to the parties to a complaint.</b></p>	
<b>Required Evidence</b>	b. The College responds to 90% of inquiries from the public within 5 business days, with follow-up timelines as necessary.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No
<p>Insert rate (<u>see Companion Document: Technical Specifications for Quantitative CPMF Measures</u>)</p> <p><b>During the reporting period, the College responded to 100% of the inquiries received from the public related to the complaints process within 5 business days.</b>  <b>During the reporting period, the College's investigations and resolutions program area responded to 97% of all inquiries received from the public within 5 business days.</b></p>	
<b>Required Evidence</b>	c. Examples of the activities the College has undertaken in supporting the public during the complaints process.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially    No
<p>List all the support available for public during complaints process:</p> <p><b>Complaints and reports can be filed online, sent by fax, email, or mail.</b></p> <p><b>The College's primary complaints process webpage highlights the College's willingness to accommodate individuals and accommodation processes are also set out in the notice and acknowledgment letters sent to complainants and registrants.</b></p> <p><b>Investigations and Resolutions (I&amp;R) staff undergo periodic accessibility training.</b></p> <p><b>Accommodation is provided to requesting individuals at all stages of the complaints process. Examples of past accommodations include having an external third-party facilitator assist in the drafting of the complainant's complaint, College staff transcribing voice messages left by an intended complainant who experiences difficulty with writing and emailing the transcript to them to confirm their accuracy, and having a third-party facilitator help a complainant draft a reply to the registrant's response to their complaint.</b>  <b>French translation services are available.</b></p> <p><b>Reasonable extensions are often provided to requesting complainants so that they may submit additional information or documentation.</b></p> <p><b>If a complaint or report raises concerns that a person may have been sexually abused by an occupational therapist, if the person's name is known, College staff will contact the person to provide them with information about how they can access the Sexual Abuse Funding Program and offer a third-party support. The independent support person provided by the College is an expert in providing trauma informed support and specializes in trauma because of sexual abuse and has an in-depth knowledge of the College's complaints, reports, and discipline processes. This person is made available regardless of whether</b></p>	

<p><b>the person who is alleged to have been sexually abused filed a complaint or not, and is available at all stages of the process from intake all the way up to the determination of any discipline hearing held into the allegations.</b></p> <p>Most frequently provided supports in CY 2020:</p> <ul style="list-style-type: none"> <li>• <b>Third-party facilitator retained to help an intended complainant write and submit their written complaint.</b></li> <li>• <b>French translation services.</b></li> <li>• <b>Only mailing correspondence and refraining from using telephone and email at the request of the complainant.</b></li> </ul>	
<b>Measure</b>	12.2 All parties to a complaint and discipline process are kept up to date on the progress of their case, and complainants are supported to participate effectively in the process.
<b>Required Evidence</b>	a. Provide details about how the College ensures that all parties are regularly updated on the progress of their complaint or discipline case and are supported to participate in the process.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to document(s) outlining how all parties will be kept up to date and support available at the various stages of the process <b>OR</b> provide a brief description:</p> <p><b>During all telephone and email contact, staff invite complainants to contact them if they have any questions or concerns about the information provided or the investigation process.</b></p> <p><b>In compliance with the requirements of the RHPA, delay letters are sent out for complaints not resolved within 150 days.</b></p> <p><b>All parties to complaints and reports are advised in writing when their matter is scheduled for review by ICRC. When an extension request is granted, communicate with other party where relevant that there will be a delay.</b></p> <p><b>If a matter is referred to Discipline by the ICRC, a letter is sent to the complainant notifying them of the referral and the College’s prosecution counsel advises them when a matter is set down for hearing if they are to be called as a witness.</b></p>	
<p><i>Additional comments for clarification (optional)</i></p> <p><b>To elevate the criteria further, in February 2021, a new process was implemented requiring College staff to contact the other party, to advise of any approved extension request if it will cause a processing delay.</b></p>	
<p><b>Standard 13</b></p> <p><b>All complaints, reports, and investigations are prioritized based on public risk, and conducted in a timely manner with necessary actions to protect the public.</b></p>	
<b>Measure</b>	13.1 The College addresses complaints in a right touch manner.
<b>Required Evidence</b>	a. The College has accessible, up-to-date, documented guidance setting out the framework for assessing risk and acting on complaints, including the prioritization of investigations, complaints, and reports (e.g. risk matrix, decision matrix/tree, triage protocol).

<b>College Response</b>	The College fulfills this requirement:    Yes <input type="checkbox"/> Partially <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p>Insert a link to guidance document <b>OR</b> briefly describe the framework and how it is being applied:</p> <p><b>Investigations &amp; Resolutions (I&amp;R) Manager reviews all complaints and reports received, and assesses risk using a standard risk classification process, including any potential need for an interim order.</b></p> <p><b>I&amp;R Manager assigns cases to team members based on risk i.e. high and moderate risk cases are assigned to more experienced staff or increased supervision is provided if this is not possible.</b></p> <p><b>If a complaint, I&amp;R staff member investigating on behalf of the ICRC immediately reviews to ascertain if potentially frivolous &amp; vexatious or ADR processes should be invoked.</b></p> <p><b>I&amp;R team conduct bi-weekly case reviews where the risk rating is reassessed as new evidence becomes available.</b></p> <p><b>In accordance with right touch regulation principles, moderate and high-risk cases are prioritized.</b></p> <p><b>When reviewing cases, the ICRC use two different types of risk assessment tools: a risk matrix to determine the level of risk and a decision tree that ensures consistent decision making based on risk.</b></p> <p>Provide the year when it was implemented <b>OR</b> evaluated/updated (if applicable): <b>2020</b></p>	
<b>Standard 14</b>	
<b>The College complaints process is coordinated and integrated.</b>	
<b>Measure</b>	14.1 The College demonstrates that it shares concerns about a registrant with other relevant regulators and external system partners (e.g. law enforcement, government, etc.).
<b>Required Evidence</b>	a. The College’s policy outlining consistent criteria for disclosure and examples of the general circumstances and type of information that has been shared between the College and other relevant system partners, within the legal framework, about concerns with individuals and any results.
<b>College Response</b>	The College fulfills this requirement:    Yes <input type="checkbox"/> Partially <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p>Insert a link to policy <b>OR</b> briefly describe the policy:</p> <p><b>When appropriate and in compliance with the requirements of s. 36 of the RHPA, the College will share information about investigations and decisions made by the ICRC, Discipline and Fitness to Practise Committees.</b></p> <p><b>There are regulatory history forms/suitability to practise requests and letters of standing that I&amp;R assists Registration with completing for those registrants applying in other jurisdictions or with other Ontario professional regulators.</b></p> <p><b>If concerns are received which impact another regulator, e.g. an OT using “doctor”, or any abbreviation of it, in their title or another registered professional holding out as an OT, staff share all known information about the concerns received with the applicable regulator.</b></p> <p><b>Similarly, if during an investigation into an OT, information is learned which raises incompetence or misconduct concerns about another regulated health care professional, that information will be reported</b></p>	

**to the relevant regulator. For instance, if investigating allegations of sexual abuse committed by an OT the College learns that another regulated healthcare professional knew of the abuse but did not file a mandatory report.**

**Information is also disclosed, in accordance with the RHPA, if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons. The I&R team utilizes this principle when assessing whether information a registrant has disclosed needs to be reported to law enforcement for further action (i.e. wellness checks).**

**Any listed employer of an OT is informed if the OT's certificate of registration was suspended or revoked or had TCLs placed in it by the ICRC (through an interim order or undertaking with restrictions), Discipline Committee or the Fitness to Practise Committee.**

**Any other regulator we know an OT is registered with is informed of any suspensions, revocations or if the Discipline Committee makes a finding of professional misconduct and/or incompetence, or if a finding of incapacity was made by the Fitness to Practise Committee.**

**Following recommendations made in the To Zero Independent Report, information is never unilaterally reported to the police following receipt of a report or complaint alleging sexual abuse or sexual harassment. In these instances, the individual alleged to have been sexually abused is given the choice to decide if they wish to report to the police and investigations staff also offer to make a report on their behalf, if they consent to us doing so.**

**Cease and desist letters are sent to employers who have retained individuals illegally practicing occupational therapy or holding themselves out as OTs without being registered with the College. This can include former registrants who resigned while on a leave of absence with their employer and resumes work prior to being registered with the College.**

**Information may be shared with the Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO), the national organization of occupational therapy regulators in Canada, about unauthorized practice situations and discipline findings.**

Provide an overview of whom the College has shared information over the past year and purpose of sharing that information (i.e. general sectors of system partner, such as 'hospital', or 'long-term care home').

**The College has shared information about a registrant's prior history and whether they are the subject of any ongoing investigations with other regulators in Canada that the registrant is applying for registration with.**

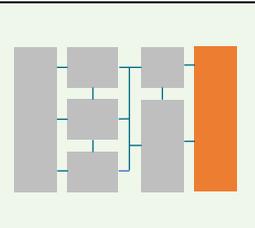
**The College has reported information to another regulator in Ontario during the reporting period when it received information that their member was calling themselves an occupational therapist without being registered with the College.**

*If the response is "partially" or "no", is the College planning to improve its performance over the next reporting period?*      **Yes**     **No**

*Additional comments for clarification (if needed)*

The College will develop a written policy in 2021. Topics also pertaining to this policy are to include, when it might be appropriate to share information with government agencies which may designate OTs to perform certain healthcare activities such as the Assistive Devices Program or the capacity assessor list made under the *Substitute Decisions Act, 1992*.

DOMAIN 7: MEASUREMENT, REPORTING, AND IMPROVEMENT	
<b>Standard 15</b> The College monitors, reports on, and improves its performance.	
<b>Measure</b>	15.1 Council uses Key Performance Indicators (KPIs) in tracking and reviewing the College’s performance and regularly reviews internal and external risks that could impact the College’s performance.
<b>Required Evidence</b>	a. Outline the College’s KPI’s, including a clear rationale for why each is important.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
Insert a link to document that list College’s KPIs with an explanation for why these KPIs have been selected (including what the results the respective KPIs tells, and how it relates to the College meeting its strategic objectives and is therefore relevant to track), link to Council meeting materials where this information is included <b>OR</b> list KPIs and rationale for selection:	
<p><b>The College has several KPI processes. These include:</b></p> <p><b>The Quarterly Report for all program and committees is submitted to Council quarterly for review and approval. This was updated in 2020 to include important KPI’s per program and committee, as decided by Executive, College Staff, and as to prevent significant overlap with this CPMF report and the published and publicly available annual report. The Quarterly report is available at: <a href="#">January 28, 2021 (p.27)</a> and the process of developing this updated version is explained on p. 25.</b></p> <p><b>In addition, the annual report supports all the quarterly reports where information about the College programs and relevant and useful regulatory and operational information regarding the previous year is compiled, approved by Council, and posted. <a href="#">The 2020 report is available online.</a></b></p> <p><b>When developing the 2020-2023 strategic plan, the College Risk register was used to identify risk areas and how these are mitigated, controlled, or alleviated through the proposed strategic activities. The entire risk report is not provided to Council unless requested, but a report of the high / critical risks is reviewed by both Council and Executive at each meeting. These risks inform some of the Quarterly KPIs, some of the content in the Annual Report, and the Strategic Plan.</b></p>	
<i>Additional comments for clarification (if needed)</i> The College is in the process of retaining a vendor for an Enterprise-Wide information system. The current platform does not allow for efficient collection and reporting of KPIs. The College’s ability to better define KPIs, track, monitor and report on these will improve with a system (scheduled for 2021).	

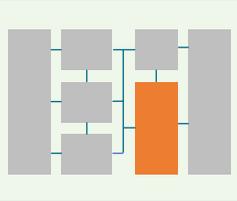


Required Evidence	b. Council uses performance and risk information to regularly assess the College’s progress against stated strategic objectives and regulatory outcomes.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to last year’s Council meetings materials where Council discussed the College’s progress against stated strategic objectives, regulatory outcomes and risks that may impact the College’s ability to meet its objectives and the corresponding meeting minutes:</p> <p><b>The June Council meeting contains a report on the Strategic Outcomes and ongoing objectives. Each quarter, progress on strategic outcomes are reported to council via presentation. This is outlined on the agendas, outlined on these packages:</b></p> <p><a href="#">January 2020 (Risk Report: p. 22, Priority Report: p. 14)</a></p> <p><a href="#">March 2020 (Risk Report: p. 43, Priority Report: p. 35)</a></p> <p><a href="#">June 2020 (Risk Report: p. 58, Strategic Objectives: p. 38, Priority Report: p. 51)</a></p> <p><a href="#">October 2020 (Risk Report: p. 114, Priority Report in redevelopment during this meeting, reported in January 2021 as the new Quarterly Performance Report)</a></p>	
Measure	15.2 Council directs action in response to College performance on its KPIs and risk reviews.
Required Evidence	a. Where relevant, demonstrate how performance and risk review findings have translated into improvement activities.
College Response	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to Council meeting materials where relevant changes were discussed and decided upon:</p> <p><b>Tracking of high-risk activities and reporting on these are provided to Council at each meeting. In the risk report, Control Procedures, Action Plans and Monitoring, and any updates to improvement activities are available in the Council meeting materials, available here:</b></p> <p><a href="#">January 2020 (Risk Report: p. 22)</a></p> <p><a href="#">March 2020 (Risk Report: p. 43)</a></p> <p><a href="#">June 2020 (Risk Report: p. 58)</a></p> <p><a href="#">October 2020 (Risk Report: p. 114)</a></p> <p><b>In one example of risk improvement activities, on the Quarterly Report the timeframes for ICRC case completion were identified as being too long. Over 2020, initiatives were made to address this risk, with the case completion times now within established benchmarks.</b></p>	

<b>Measure</b>	15.3 The College regularly reports publicly on its performance.
<b>Required Evidence</b>	a. Performance results related to a College’s strategic objectives and regulatory activities are made public on the College’s website.
<b>College Response</b>	The College fulfills this requirement: <b>Yes X</b> Partially No
<p>Insert a link to College’s dashboard or relevant section of the College’s website:</p> <p><b>All Council materials are posted on publicly on the website, archived by date. In these, all information about strategic priorities and performance are posted for both Council and those that attend the meetings or wish to review the materials.</b></p> <p><b>All outcomes are outlined on our <a href="#">Strategic Planning page</a>, available for 2017-2020.</b></p> <p><b><a href="#">2020 – 2023 Leadership Outcomes available on our website.</a></b></p>	

DRAFT

## Part 2: Context Measures

DOMAIN 6: SUITABILITY TO PRACTICE		
Standard 11		
<p>The College ensures the continued competence of all active registrants through its Quality Assurance processes. This includes an assessment of their competency, professionalism, ethical practice, and quality of care.</p>		
<p>Statistical data collected in accordance with recommended methodology or College own methodology: <b>Recommended methodology (for all Context Measures)</b> College methodology                      If College methodology, please specify rationale for reporting according to College methodology:</p>		
Context Measure (CM)		
<b>CM 1.</b> Type and distribution of QA/QI activities and assessments used in CY 2020*		<p><b>What does this information tell us?</b> Quality assurance (QA) and Quality Improvement (QI) are critical components in ensuring that professionals provide care that is safe, effective, patient centred and ethical. In addition, health care professionals face several ongoing changes that might impact how they practice (e.g. changing roles and responsibilities, changing public expectations, legislative changes).</p> <p>The information provided here illustrates the diversity of QA activities the College undertook in assessing the competency of its registrants and the QA and QI activities its registrants undertook to maintain competency in CY 2020. The diversity of QA/QI activities and assessments is reflective of a College's risk-based approach in executing its QA program, whereby the frequency of assessment and activities to maintain competency are informed by the risk of a registrant not acting competently. Details of how the College determined the appropriateness of its assessment component of its QA program are described or referenced by the College in Measure 13(a) of Standard 11.</p>
Type of QA/QI activity or assessment	#	
i. Peer and Practice Assessment	10 carried over from 2019 18 new in 2020 (2 resigned)	
ii. Self-Assessment (every other year requirement) due December 31, 2020	2534 (98.3% compliance)	
iii. Professional Development Plan (annual requirement), 2020 exemption granted	NA	
iv. Prescribed Regulatory Education Program (annual requirement) due December 31 2020	6172 (98.5% compliance)	
<p>* Registrants may be undergoing multiple QA activities over the course of the reporting period. While future iterations of the CPMF may evolve to capture the different permutations of pathways registrants may undergo as part of a College's QA Program, the requested statistical information recognizes the current limitations in data availability today and is therefore limited to type and distribution of QA/QI activities or assessments used in the reporting period.</p> <p>NR = Non-reportable: results are not shown due to &lt; 5 cases</p>		
<p>Additional comments for clarification (if needed)</p> <p>Currently, the QA Competency Assessment program is in redesign with a target outcome of being able to select and process more registrants through a risk-based approach and screening tool. The risk-based selection process was completed in 2020 and the pilot of this began in December. The screening tool (Step 2) is to be piloted in June 2021 with an anticipated full program roll-out by year end 2021. For 2020 the Professional Development Plan completion requirement for May 31 was waived due to the pandemic. Despite this, it was still completed by 20% of registrants.</p>		

Context Measure (CM)			
	#	%	
<b>CM 2.</b> Total number of registrants who participated in the QA Program CY 2020 <b>Peer Assessments</b> <b>Self Assessment</b> <b>Prescribed Regulatory Education Program (PREP)</b> <b>Professional Development Plan</b>	<b>28</b> <b>2491/2534</b> <b>6080/6172</b> <b>NA</b>	<b>.4</b> <b>98.34</b> <b>98.51</b> <b>NA</b>	<b><i>What does this information tell us?</i></b> If a registrant's knowledge, skills and judgement to practice safely, effectively and ethically have been assessed or reassessed and found to be unsatisfactory or a registrant is non-compliant with a College's QA Program, the College may refer him or her to the College's QA Committee.  The information provided here shows how many registrants who underwent an activity or assessment in CY 2020 as part of the QA program where the QA Committee deemed that their practice is unsatisfactory and as a result have been directed to participate in specified continuing education or remediation program.
<b>CM 3.</b> Rate of registrants who were referred to the QA Committee as part of the QA Program in CY 2020 where the QA Committee directed the registrant to undertake remediation. * * NR = Non-reportable: results are not shown due to < 5 cases (for both # and %)	<b>Non-Compliant</b> <b>n=8/17</b>  <b>PPA</b> <b>n=1/10 (SCERP)</b>	<b>47%</b>  <b>10%</b>	
<i>Additional comments for clarification (optional)</i>  <b>CM 2.</b> The number of registrants change with new applications and resignations, so it is a moving target during the year. The Self-Assessment is only completed every other year, so not all registrants were required to complete this in 2020. The deadline for the Self Assessment and PREP was December 31, 2020, so any registrants who were non-compliant with these tools will be addressed in 2021.  <b>CM 3.</b> Only 10 assessments went to QAC in 2020, the other 16 are pending in 2021 as the selection was completed in December and assessment booked for January 2021. Selection of registrants for assessment was delayed due to the pandemic considering that the in-person process needed to be moved to virtual. For non-compliance with the required QA Program tools for 2020, 17 registrants were flagged and 8 were directed to complete the tools or undergo a Peer and Practice Assessment. Of these 8, two resigned.  The program has focused on non-compliance with the mandatory QA tools over the last several years as non-compliance and failure to engage in appropriate learning and reflection is related to risk of incompetence.			
Context Measure (CM)			
<b>CM 4.</b> Outcome of remedial activities in CY 2020*:	#	%	<b><i>What does this information tell us?</i></b> This information provides insight into the outcome of the College's remedial activities directed by the QA Committee and may help a College evaluate the effectiveness of its "QA remediation activities". Without additional context no conclusions can be drawn on how successful the QA remediation activities are, as many factors may influence the practice and behaviour registrants (continue to) display.
Registrants who demonstrated required knowledge, skills, and judgment following remediation**	7	100	
Registrants still undertaking remediation (i.e. remediation in progress)	0	0	

*Additional comments for clarification (if needed)*

**Only seven registrants required remediation in 2020. One was a SCERP following a Peer and Practice Assessment and this was completed. 5 were required to complete the PREP and Self Assessment, and 1 was required to undertake a Peer and Practice Assessment. The 2020 QA deadlines were moved to December 31, 2020 due to the pandemic, so remediation for registrants that were non-compliant will be in January 2021.**

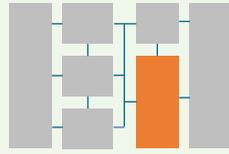
**Of non-compliance cases, 14 (100%) of those directed to complete the outstanding QA tools, completed the self-directed learning activity. 2 resigned and 1 was directed to a Peer Assessment.**

*\* NR = Non-reportable: results are not shown due to < 5 cases (for both # and %)*  
*\*\* This measure may include registrants who were directed to undertake remediation in the previous year and completed reassessment in CY2020.*

**DOMAIN 6: SUITABILITY TO PRACTICE**

**Standard 13**

**All complaints, reports, and investigations are prioritized based on public risk, and conducted in a timely manner with necessary actions to protect the public.**



Statistical data collected in accordance with recommended methodology or College own methodology: **Recommended X (for all Context Measures)** College methodology

*If College methodology, please specify rationale for reporting according to College methodology:*

**Context Measure (CM)**

CM 5. Distribution of formal complaints* and Registrar's Investigations by theme in CY 2020	Formal Complaints received†		Registrar Investigations initiated†		
	#	%	#	%	
Themes:					
Advertising	0	0	0	0	<p><b>What does this information tell us?</b> This information facilitates transparency to the public, registrants and the ministry regarding the most prevalent themes identified in formal complaints received and Registrar's Investigations undertaken by a College.</p>
Billing and Fees	0	0	NR	NR	
Communication	NR	NR	NR	NR	
Competence / Patient Care	6	60	NR	NR	
Fraud	0	0	NR	NR	
Professional Conduct & Behaviour	NR	NR	NR	NR	
Record keeping	NR	NR	NR	NR	

Sexual Abuse / Harassment / Boundary Violations	0	0	0	0	
Unauthorized Practice	0	0	0	0	
Other <please specify>	NR	NR	13	72	
<b>Total number of formal complaints and Registrar's Investigations**</b>	<b>10</b>	<b>100%</b>	<b>18</b>	<b>100%</b>	
<p>* <b>Formal Complaint:</b> A statement received by a College in writing or in another acceptable form that contains the information required by the College to initiate an investigation. This excludes complaint inquires and other interactions with the College that do not result in a formally submitted complaint.  <b>Registrar's Investigation:</b> Where a Registrar believes, on reasonable and probable grounds, that a registrant has committed an act of professional misconduct or is incompetent he/she can appoint an investigator upon ICRC approval of the appointment. In situations where the Registrar determines that the registrant exposes, or is likely to expose, his/her patient to harm or injury, the Registrar can appoint an investigator immediately without ICRC approval and must inform the ICRC of the appointment within five days.</p> <p>‡ <b>NR = Non-reportable:</b> results are not shown due to &lt; 5 cases (for both # and %)</p> <p>** The requested statistical information (number and distribution by theme) recognizes that formal complaints and registrar's investigations may include allegations that fall under multiple themes identified above, therefore when added together the numbers set out per theme may not equal the total number of formal complaints or registrar's investigations.</p>					
<p><i>Additional comments for clarification (if needed)</i></p> <p>The complaints that did not fall into any of the noted themes and instead fell into the "Other" category related to concerns around interprofessional communication and incorrect addresses of the registrants which were provided to organizations that the registrants provided services to. The Registrar's Investigations that fell into the "Other" category related to concerns reported around non-record keeping related privacy breaches and failure to meet the College's professional liability insurance requirements. Based on our interpretation of the technical specifications relating to this context measure, excluded from the above analysis are matters which are not complaints, but information reported where an investigator is not appointed by the ICRC (e.g. matters where the Registrar decides not to seek ICRC approval to appoint an investigator pursuant to s. 75(1)(a) and instead initiates preliminary or health inquiries, takes administrative action, or closes a matter with no regulatory action, etc.) and a case where an investigator was appointed pursuant to s.75(1)(b) i.e. Quality Assurance Committee referral.</p>					
<b>Context Measure (CM)</b>					
<b>CM 6.</b> Total number of formal complaints that were brought forward to the ICRC in CY 2020				<b>16*</b>	<p><i>What does this information tell us?</i> The information helps the public better understand how formal complaints filed with the College and Registrar's Investigations are disposed of or resolved. Furthermore, it provides transparency on key sources of concern that are being brought forward to the College's committee that investigates concerns about its registrants.</p>
<b>CM 7.</b> Total number of ICRC matters brought forward because of a Registrars Investigation in CY 2020				<b>28*</b>	
<b>*Note to reader re CM6 and CM7: Complaints and registrar's investigations brought forward to the ICRC for consideration more than once during the reporting period were only counted once in the data reported.</b>					
<b>CM 8.</b> Total number of requests or notifications for appointment of an investigator through a Registrar's Investigation brought forward to the ICRC that were approved in CY 2020				<b>19</b>	
<b>CM 9.</b> Of the formal complaints* received in CY 2020**:	#			%	
Formal complaints that proceeded to Alternative Dispute Resolution (ADR)‡	<b>0</b>			<b>0</b>	
Formal complaints that were resolved through ADR	<b>0</b>			<b>0</b>	
Formal complaints that were disposed** of by ICRC	<b>20</b>				
Formal complaints that proceeded to ICRC and are still pending	<b>3</b>			<b>19</b>	

College of Occupational Therapists of Ontario, College Performance Measurement Framework (CPMF) Reporting Tool, For the reporting year, 2020

Formal complaints withdrawn by Registrar at the request of a complainant $\Delta$	<b>NR</b>	<b>NR</b>					
Formal complaints that are disposed of by the ICRC as frivolous and vexatious	<b>0</b>	<b>0</b>					
Formal complaints and Registrars Investigations that are disposed of by the ICRC as a referral to the Discipline Committee	<b>0</b>	<b>0</b>					
<p><b>** Disposals:</b> The day upon which a decision was provided to the registrant and complainant by the College (i.e. the date the reasons are released and sent to the registrant and complainant).</p> <p><b>* Formal Complaints:</b> A statement received by a College in writing or in another acceptable form that contains the information required by the College to initiate an investigation. This excludes complaint inquires and other interactions with the College that do not result in a formally submitted complaint.</p> <p><b>‡ ADR:</b> Means mediation, conciliation, negotiation, or any other means of facilitating the resolution of issues in dispute.</p> <p><math>\Delta</math> The Registrar may withdraw a formal complaint prior to any action being taken by a Panel of the ICRC, at the request of the complainant, where the Registrar believed that the withdrawal was in the public interest.</p> <p><b>#</b> May relate to Registrars Investigations that were brought to ICRC in the previous year.</p> <p><b>**</b> The total number of formal complaints received may not equal the numbers from 9(i) to (vi) as complaints that proceed to ADR and are not resolved will be reviewed at ICRC, and complaints that the ICRC disposes of as frivolous and vexatious and a referral to the Discipline Committee will also be counted in total number of complaints disposed of by ICRC.</p> <p><math>\phi</math> <b>Registrar's Investigation:</b> Under s.75(1)(a) of the RHPA, where a Registrar believes, on reasonable and probable grounds, that a registrant has committed an act of professional misconduct or is incompetent he/she can appoint an investigator upon ICRC approval of the appointment. In situations where the Registrar determines that the registrant exposes, or is likely to expose, his/her patient to harm or injury, the Registrar can appoint an investigator immediately without ICRC approval and must inform the ICRC of the appointment within five days.</p> <p><b>NR = Non-reportable: results are not shown due to &lt; 5 cases (for both # and %)</b></p>							
<b>Context Measure (CM)</b>							
<b>CM 10. Total number of ICRC decisions in 2020</b>							
Distribution of ICRC decisions by theme in 2020*	# of ICRC Decisions‡						
Nature of issue	Take No Action	Provides Advice / Recommendations	Issues Oral Caution	Orders a Specified Continuing Education or Remediation Program	Agrees to Undertaking	Refers Specified Allegations to the Discipline Committee	Takes any other action it considers appropriate that is not inconsistent with its governing legislation, regulations, or by-laws.
Advertising	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Billing and Fees	<b>NR</b>	<b>0</b>	<b>0</b>	<b>NR</b>	<b>NR</b>	<b>0</b>	<b>0</b>
Communication	<b>NR</b>	<b>NR</b>	<b>0</b>	<b>NR</b>	<b>NR</b>	<b>0</b>	<b>NR</b>
Competence / Patient Care	<b>8</b>	<b>6</b>	<b>0</b>	<b>NR</b>	<b>NR</b>	<b>0</b>	<b>NR</b>
Fraud	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Professional Conduct & Behaviour	<b>7</b>	<b>NR</b>	<b>0</b>	<b>0</b>	<b>NR</b>	<b>0</b>	<b>NR</b>
Record keeping	<b>7</b>	<b>0</b>	<b>0</b>	<b>NR</b>	<b>6</b>	<b>0</b>	<b>8</b>
Sexual Abuse / Harassment / Boundary Violations	<b>NR</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>NR</b>	<b>0</b>
Unauthorized Practice	<b>NR</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Other <please specify>	<b>6</b>	<b>NR</b>	<b>0</b>	<b>0</b>	<b>NR</b>	<b>0</b>	<b>NR</b>

<p>* Number of decisions are corrected for formal complaints ICRC deemed frivolous and vexatious AND decisions can be regarding formal complaints and registrar’s investigations brought forward prior to 2020.                  ‡ NR = Non-reportable: results are not shown due to &lt; 5 cases.                  ++ The requested statistical information (number and distribution by theme) recognizes that formal complaints and Registrar’s Investigations may include allegations that fall under multiple themes identified above, therefore when added together the numbers set out per theme may not equal the total number of formal complaints or registrar’s investigations, or findings.</p>		
<p><b>What does this information tell us?</b> This information will help increase transparency on the type of decisions rendered by ICRC for different themes of formal complaints and Registrar’s Investigation and the actions taken to protect the public. In addition, the information may assist in further informing the public regarding what the consequences for a registrant can be associated with a particular theme of complaint or Registrar investigation and could facilitate a dialogue with the public about the appropriateness of an outcome related to a particular formal complaint.</p>		
<p><i>Additional comments for clarification (if needed)</i>  <b>The themes that fall into the “Other” category relate to concerns reported around non-record keeping related privacy breaches, engaging in inappropriate sexual relations with someone other than a client, and failure to meet the College’s professional liability insurance requirements.</b></p>		
<p><b>Context Measure (CM)</b></p>		
<p><b>CM 11.</b> 90<sup>th</sup> Percentile disposal* of:</p>	<p>Days</p>	<p><b>What does this information tell us?</b> This information illustrates the maximum length of time in which 9 out of 10 formal complaints or Registrar’s investigations are being disposed by the College.                  The information enhances transparency about the timeliness with which a College disposes of formal complaints or Registrar’s investigations. As such, the information provides the public, ministry, and other stakeholders with information regarding the approximate timelines they can expect for the disposal of a formal complaint filed with, or Registrar’s investigation undertaken by, the College.</p>
<p>A formal complaint in working days in CY 2020</p>	<p><b>332</b></p>	
<p>A Registrar’s investigation in working days in CY 2020</p>	<p><b>513</b></p>	
<p>*<b>Disposal Complaint:</b> The day where a decision was provided to the registrant and complainant by the College (i.e. the date the reasons are released and sent to the registrant and complainant).                  *<b>Disposal Registrar’s Investigation:</b> The day upon which a decision was provided to the registrant and complainant by the College (i.e. the date the reasons are released and sent to the registrant and complainant).</p>		
<p><i>Additional comments for clarification (if needed)</i>  <b>While 332 days and 513 days were the respective 90<sup>th</sup> percentile disposal of complaints and registrar’s investigations, 205 and 291 working days are the average disposal times for each type of case within the reporting period. Reducing case completion times is an ongoing priority for the College. Commencing June 2019, internal benchmarks and auditing processes were introduced to ensure both timely processing of complaints and registrar’s investigations and staff compliance with the same. In accordance with these benchmarks, time frames are specified within which certain activities in the investigation process must be completed by. The College has noticed a reduction of circa 35% in the average case completion time for complaints subjected to the benchmarks (i.e. those opened on or after June 1, 2019).</b></p>		
<p><b>Context Measure (CM)</b></p>		
<p><b>CM 12.</b> 90<sup>th</sup> Percentile disposal* of:</p>	<p>Days</p>	<p><b>What does this information tell us?</b> This information illustrates the maximum length of time in which 9 out of 10 uncontested discipline hearings and 9 out of 10 contested discipline hearings are being disposed. *                  The information enhances transparency about the timeliness with which a discipline hearing undertaken by a College is concluded. As such, the information provides the public, ministry, and other stakeholders with information regarding the approximate timelines they can expect for the resolution of a discipline proceeding undertaken by the College.</p>
<p>An uncontested^ discipline hearing in working days in CY 2020</p>	<p><b>N/A</b></p>	
<p>A contested# discipline hearing in working days in CY 2020</p>	<p><b>288</b></p>	
<p>* <b>Disposal:</b> Day where all relevant decisions were provided to the registrant and complainant by the College (i.e. the date the reasons are released and sent to the registrant and complainant, including both liability and penalty decisions, where relevant).</p>		

**^ Uncontested Discipline Hearing:** In an uncontested hearing, the College reads a statement of facts into the record which is either agreed to or uncontested by the Respondent. Subsequently, the College and the respondent may make a joint submission on penalty and costs or the College may make submissions which are uncontested by the Respondent.

**# Contested Discipline Hearing:** In a contested hearing, the College and registrant disagree on some or all the allegations, penalty and/or costs.

*Additional comments for clarification (if needed)*

**There were no uncontested discipline hearings at the College in 2020.**

**There was 1 contested discipline hearing at the College during the reporting period. While the decision and reasons on finding/liability was released and sent to the parties in 2020, the decision and reasons on penalty is expected to be released in 2021.**

**Context Measure (CM)**

**CM 13. Distribution of Discipline finding by type\***

Type	#	
Sexual abuse	NR	<p><b>What does this information tell us?</b> This information facilitates transparency to the public, registrants, and the ministry regarding the most prevalent discipline findings where a formal complaint or Registrar’s Investigation is referred to the Discipline Committee by the ICRC.</p>
Incompetence	0	
Fail to maintain Standard	0	
Improper use of a controlled act	0	
Conduct unbecoming	NR	
Dishonourable, disgraceful, unprofessional	NR	
Offence conviction	0	
Contravene certificate restrictions	0	
Findings in another jurisdiction	0	
Breach of orders and/or undertaking	0	
Falsifying records	0	
False or misleading document	0	
Contravene relevant Acts	0	

*\*The requested statistical information recognizes that an individual discipline case may include multiple findings identified above, therefore when added together the number of findings may not equal the total number of discipline cases.*

**NR = Non-reportable: results are not shown due to < 5 cases.**

*Additional comments for clarification (if needed)*

**Note to reader: College staff were unclear on how to interpret the inclusion and exclusion criteria for CM13. For clarity’s sake, the data reported relates to a matter referred to discipline before the commencement of the reporting period, but decided on during the reporting period.**

**Context Measure (CM)**

**CM 14. Distribution of Discipline orders by type\***

Type	#	

Revocation <sup>+</sup>	0	<b>What does this information tell us?</b> This information will help strengthen transparency on the type of actions taken to protect the public through decisions rendered by the Discipline Committee. It is important to note that no conclusions can be drawn on the appropriateness of the discipline decisions without knowing intimate details of each case including the rationale behind the decision.
Suspension <sup>§</sup>	0	
Terms, Conditions and Limitations on a Certificate of Registration <sup>**</sup>	0	
Reprimand <sup>^</sup> and an Undertaking <sup>#</sup>	0	
Reprimand <sup>^</sup>	0	
<p><i>*The requested statistical information recognizes that an individual discipline case may include multiple findings identified above, therefore when added together the numbers set out for findings and orders may not be equal and may not equal the total number of discipline cases.</i></p> <p><i>+ Revocation of a registrant’s certificate of registration occurs where the discipline or fitness to practice committee of a health regulatory college makes an order to “revoke” the certificate which terminates the registrant’s registration with the college and therefore his/her ability to practice the profession.</i></p> <p><i>§ A suspension of a registrant’s certificate of registration occurs for a set period during which the registrant is not permitted to:</i></p> <ul style="list-style-type: none"> <li><i>• Hold himself/herself out as a person qualified to practice the profession in Ontario, including using restricted titles (e.g. doctor, nurse),</i></li> <li><i>• Practice the profession in Ontario, or</i></li> <li><i>• Perform controlled acts restricted to the profession under the Regulated Health Professions Act, 1991.</i></li> </ul> <p><i>**Terms, Conditions and Limitations on a Certificate of Registration are restrictions placed on a registrant’s practice and are part of the Public Register posted on a health regulatory college’s website.</i></p> <p><i>^ A reprimand is where a registrant is required to attend publicly before a discipline panel of the College to hear the concerns that the panel has with his or her practice</i></p> <p><i># An undertaking is a written promise from a registrant that he/she will carry out certain activities or meet specified conditions requested by the College committee.</i></p> <p><b>NR = Non-reportable: results are not shown due to &lt; 5 cases</b></p>		

## Appendix

Appendix A: **The Registrar Limitations Policy entitled “Financial Condition and Activities” outlines the requirement to follow the guidelines for “Establishing and Maintaining Reserve Funds”, was last revised in June 2019**

Appendix B: **The Registrar Limitations Policy titled “Financial Planning and Budgeting” outlines the requirements for the budget submitted to Council, and includes language related to planning for an appropriate balance between human and financial resources in meeting the organizations strategic objectives.**

Appendix C: **The Citizen Advisory Group Report describes the discussion questions and recommendations to the document. An insight that emerged from this consultation is the preferred “patient – provider partnership model” that includes transparent and collaborative decision making between client and therapist.**

## APPENDIX A



College of Occupational Therapists of Ontario  
Ordre des ergothérapeutes de l'Ontario

**Policy Type:** Registrar Limitations  
**Policy Title:** Financial Condition and Activities  
**Reference:** RL5  
**Date Prepared:** December 2009  
**Date Revised:** March 2010, June 2019  
**Date Reviewed:** June 2016

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*With respect to the actual, ongoing financial condition and activities, the Registrar will not cause or allow the development of fiscal jeopardy or a material deviation of actual expenditures from Council policies established in Ends policies.*

Accordingly, the Registrar will not:

Expend more funds than have been received in the fiscal year to date, unless the debt guideline (below) is met or unless directed by Council.

Indebt the College in any amount, except as approved by Council.

Fail to maintain Sexual Abuse Therapy and Counselling and Hearings Funds for unexpected costs related to these matters.

Fail to follow the guidelines for Establishing and Maintaining Reserve Funds.

Fail to settle payroll and debts.

Allow tax payments or other government-ordered payments or filings to be overdue or inaccurately filed.

Fail to secure an additional executive signature for disbursements over \$15,000.

Make a single commitment of greater than \$50,000 that is outside the budget without prior approval of the Executive Committee and will not fail to notify Council on any such single commitment.

Make any financial or service commitment greater than 5 years, without prior approval from Council.

#### **Debt Guidelines – Council Tolerance**

Balanced budget minus 3%

Comply with any covenants stipulated by the bank.

Zero Tolerance to debt.

## APPENDIX B



College of Occupational Therapists of Ontario  
Ordre des ergothérapeutes de l'Ontario

**Policy Type:** Registrar Limitations  
**Policy Title:** Financial Planning and Budgeting  
**Reference:** RL4  
**Date Prepared:** December 2009

**Date Revised:** March 2010, June 2019

**Date Reviewed:** June 2016,

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*Financial planning for any fiscal year or the remaining part of any fiscal year will not deviate materially from the Ends policies, risk fiscal jeopardy, or fail to be derived from a financial plan.*

Accordingly, the Registrar will not allow financial planning that:

Contains too little information to enable credible projection of revenues and expenses, and contain separation of capital and operational items, cash flow, and disclosure of planning assumptions.

Fails to provide adequate cash flow to support operations throughout the year and to support reserves without Council approval.

Fails to allocate sufficient funds to satisfy operational requirements.

Fails to appropriately balance resources, both human and financial, between the budget and the Ends policies.

Fails to provide sufficient resources to support Council's ability to perform its leadership role.

Budgets a deficit greater than 3% of the revenue conservatively projected in any fiscal year, unless directed by Council.



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Executive Committee  
**Subject:** Elections, Districts 3, 5, 6

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Page 1 of 1

**Recommendation:**

This is for information purposes only.

**Purpose:**

This issue is being brought to you to keep you informed about the elections for Council.

**Background:**

The College had elections this year in Districts 3, 5, 6. The position for District 6 was decided by acclamation. There was an actual election for Districts 3 and 5. The election was conducted using our usual electronic process for nominations and elections. Two individuals for each district were duly nominated and were included on the ballot.

**Process:**

The elections processes went smoothly and there were no concerns. There were numerous email reminders to encourage voter participation. The nomination and election processes were also promoted on LinkedIn and Twitter.

**Discussion:**

VOTER TURNOUT				
	2015	2018	2021	% ↑↓
District 3 (London and area)	163	182 (24.66%)	149 (18.98%)	5.68% ↓
District 5 (Sudbury and area)	n/a	acclaimed	85 (34.14%)	n/a
District 6 (Thunder Bay and area)	47	52 (43.7%)	acclaimed	n/a

**Attachment(s):**

1. Official Poll Results



## Poll Result

### 2021 College of Occupational Therapists of Ontario Council Elections

Report date: Thursday 04 March 2021 14:05 EST

#### College of Occupational Therapists of Ontario District 3 Council Election (London, Windsor, and Essex, Bruce, Grey, Chatham-Kent, Lambton, Elgin, Middlesex, Oxford, Huron and Perth areas) Council Election

Poll ID: 164625

As at Poll close: Thursday 04 March 2021 14:00 EST

Number of voters: 149 · Group size: 785 · Percentage voted: 18.98

Vote counting method: V1 FPTP (first-past-the-post)

Ranked by votes

Rank	Candidate ID	Candidate	Votes	%
1	16080280	Teri Shackleton	93	62.42
2	16080282	Mohammad AIMudallal	56	37.58

#### College of Occupational Therapists of Ontario District 5 Council Election (Sudbury, Parry Sound, Timiskaming, Nipissing, Algoma, Cochrane and Manitoulin and Muskoka areas) Council Election

Poll ID: 164626

As at Poll close: Thursday 04 March 2021 14:00 EST

Number of voters: 85 · Group size: 249 · Percentage voted: 34.14

Vote counting method: V1 FPTP (first-past-the-post)

Ranked by votes

Rank	Candidate ID	Candidate	Votes	%
1	16080286	Heather McFarlane	69	81.18
2	16080287	Kerry-Anne George	16	18.82

Results generated by [BigPulse Online Voting](#)

#### Returning Officer:

*Elinor Larney*

Elinor Larney, Registrar

#### Scrutineers:

*David Pham*

David Pham, Staff

*Andjelina Stanier*

Andjelina Stanier, Staff



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Quality Assurance Committee  
**Subject:** Appointment of Professional Non-Council Member – Quality Assurance Subcommittee

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Page 1 of 1

### **Recommendation:**

*THAT Council approves the appointment of Candice Silver for a three-year term on the Quality Assurance Subcommittee commencing on April 1, 2021.*

### **Why this is in the Public Interest:**

Using a competency-based approach to Committee member appointment supports the College's direction towards Governance best practices and regulatory modernization, thereby strengthening the College's delivery of its public protection mandate and enhancing public confidence in the regulatory system.

### **Background:**

Since March 2019, the College, along with other health regulatory colleges, have been reviewing trends and best practices with respect to governance in professional regulation with a view to strengthening public trust in regulatory institutions and their processes.

There is currently one vacancy on the Quality Assurance Subcommittee. Four candidates were interviewed by telephone in February 2021 by College staff for consideration for appointment to the Quality Assurance Subcommittee for a three-year term. The interview was based on a defined set of competencies and gaps for practice areas and location, as pre-determined by college staff.

At present, the Quality Assurance Subcommittee is comprised of five professional Non-Council members. Note while Subcommittee was looking for members from Districts 5 or 6, a suitable candidate from these regions did not apply. The addition of Ms. Silver is consistent with the Quality Assurance Subcommittee's Terms of Reference for committee composition.

### **Discussion:**

Candice Silver was presented to the Quality Assurance Committee at their February 25, 2021 meeting. Committee was also provided a summary of the interviews conducted with all candidates. Committee approved Ms. Silver being brought forward to Council for approval. Her resume is attached.

### **Attachments:**

- Candice Silver Resume (not provided to the public to protect private information)



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Patient Relations Committee  
**Subject:** Appointment of Professional Non-Council Member – Patient Relations

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Page 1 of 1

### **Recommendation:**

*THAT Council approves the appointment of Melissa Aldoroty for a three-year term on the Patient Relations Committee, commencing April 1, 2021.*

### **Public Interest in this issue:**

Using a competency-based approach to Committee member appointment supports the College's direction towards Governance best practices and regulatory modernization, thereby strengthening the College's delivery of its public protection mandate and enhancing public confidence in the regulatory system.

### **Background:**

Since March 2019, the College, along with other health regulatory colleges, have been reviewing trends and best practices with respect to Governance in professional regulation with a view to strengthening public trust in regulatory institutions and their processes.

There is currently one vacancy on the Patient Relations Committee and so they charged staff with securing appropriate candidates for consideration for appointment. Four candidates were interviewed by telephone in February 2021 by College staff for consideration for appointment to the Patient Relations Committee for a three-year term. The interview was based on a defined set of competencies and gaps for practice areas and location, as pre-determined by college staff.

At present, Patient Relations is comprised of two Professional Council members, two Public Members, and one Professional Non-Council member. Note while Patient Relations was looking for members from Districts 4, 5 or 6, a suitable candidate from these regions did not apply. The addition of Ms. Aldoroty is consistent with the Patient Relations Committee Terms of Reference for committee composition.

### **Discussion:**

Melissa Aldoroty was presented to the Patient Relations Committee at their March 2, 2021 meeting. Committee was also provided with a summary of the interviews conducted with all candidates. Committee approved Ms. Aldoroty being brought forward to Council for approval. Her resume is attached.

### **Attachment(s):**

1. Melissa Aldoroty Resume (not provided to the public to protect private information)



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Governance Committee  
**Subject:** Proposed Board Competency Framework

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Page 1 of 6

### **Recommendation:**

*THAT Council approves the adoption of the College Board Competency Framework as presented.*

### **Issue:**

To consider and approve the COTO Board Competency Framework.

### **Public Interest in this Issue:**

Individuals serving on the Board must possess the knowledge, skills and experience to discharge their duties effectively. Improving how the College is governed will strengthen our protection of the public and enhance public confidence in the regulatory system.

### **Alignment with Strategic Priorities:**

This aligns under Public Confidence:

- 1.3 College governance is responsive, effective, competency-based and accountable.
- 1.4 College decision-making processes are open, transparent, and accountable.

### **Background:**

- In the January 2020 Council meeting, one of the elements of the governance plan that Council endorsed included the idea that registrants seeking election to the Council will be screened based on their skills and competencies. The College will also introduce a transparent, independent governance process to oversee the recruitment, selection, evaluation and orientation and training for both Council and Committee members.
- The Council will soon be named the Board of Directors of the College. Currently the Board is made of Directors who are either elected registrants, academic appointments or appointments made by the government as public appointees. The College is required by the *Regulated Health Professions Act, 1991*, (RHPA) specifically the *Occupational Therapy Act, 1991* to hold elections for occupational therapists to serve on the Board. There is a global trend towards having competency-based appointments to regulatory boards of directors, rather than elections.
- While competency-based appointments are not currently possible under the RHPA, Council has the authority to set election guidelines. Such guidelines can set out the desired competencies and attributes of Board members. While these would not form part of the mandatory election criteria, these factors would help registrants who have the power to nominate candidates and vote in elections to understand what makes a good candidate.

- Many regulatory bodies across Ontario and the rest of Canada and in other jurisdictions have started to consider or to introduce comprehensive competency frameworks to direct how Boards and Committees will be comprised. The Governance Committee has reviewed many of these frameworks and have drawn from them to propose an approach for the Board to consider.
- In addition, another driver is the Ministry of Health's College Performance Measurement Framework (CPMF) that requires regulatory colleges have a pre-defined set of skills and competencies for Board members; and a process for ensuring that registrants wishing to stand for election meet these pre-defined skills and competencies.
- The evidence that the Ministry is requesting from health regulatory colleges in support of this measure includes a requirement that Council members only be eligible to stand for elections to Council after meeting pre-defined competency/suitability criteria. Along with the eligibility criteria already outlined in Bylaws, the adoption of the COTO Board Competency Framework will fulfill the Ministry's requirements.

#### **Discussion:**

- The proposed COTO Board Competency Framework (see attachment) defines the personal attributes and the knowledge, skill and experiences required of the Board. They provide the structure that helps identify, assess and develop the behaviours and skills that contribute to and ensure effective governance. The framework should support and facilitate COTO's vision and mission and be aligned with the College's strategic plan.
- The COTO Board Competency framework can also assist the College to adapt their composition in an intentional and methodical way, to promote board composition that is inclusive, diverse and relevant.
- Within the context of the required Board attributes, skills and expertise, consideration would also be given to bringing together a diverse group of Directors with a goal of creating robust Board dynamics, fulsome Board discussions and ensuring different perspectives are brought forward. Having the optimal mix of skills, expertise and experience is paramount to ensure that the Board as a collective is reflective of the populations that utilize occupational therapy services. The proposed Board Competency Framework incorporates diversity and includes areas of professional practice, geographical location, age, cultural and gender diversity.
- The proposed Board Competency Framework depicts the ideal composition of a fully functioning Board. It is not necessary for Directors to be proficient or an expert in all the listed competencies. Rather, Directors should bring skills and competencies that, when combined with other board members, provide the Board with a comprehensive competency profile. What is important is that the Board have the collective expertise in the competencies that are necessary to provide oversight and strategic guidance to the College.

#### **Recommended COTO Board Competency Framework**

Based on best practices at other regulatory bodies, the following attributes and competencies are recommended for COTO.

### **Board Attributes (for individual board directors)**

#### Assumptions:

- Listed below are the eight attributes that every board director will possess or attain to support strong decision-making in the public interest.
- Board directors will strive to build on the attributes outlined. Not everyone will possess all the attributes here, but the expectation is that Board directors will continue to work to build them during their tenure on the Board.

1. Accountability, Honesty, and Integrity

**Definition:** Act with integrity and speak the truth, be able and willing to take full responsibility for decisions and follow through on commitments.

2. Collaborative, Open and Curious

**Definition:** Recognize that, in a complex system, what can emerge as a result of meaningful engagement and dialogue will be stronger than what is created in isolation. Be open to new ideas, new perspectives, and new ways of doing things, always bringing a learning mindset to decision-making.

3. Communicator

**Definition:** Be able to effectively and actively listen with the ability to express ideas, opinions and positions clearly.

4. Inclusivity

**Definition:** Create an environment and culture that welcomes diverse perspectives, new partners and ideas.

5. Objectivity

**Definition:** Be able to self-reflect and make decisions based on evidence and reliable and valid information, to best fulfil the public mandate.

6. Public Interest focus

**Definition:** Upholds the public's right to safe, ethical care, demonstrated by an understanding and appreciation of, and commitment to, the public protection mandate and the time required to execute the role diligently. Recognizing that the public interest will always be prioritized over personal or professional interests.

7. Respect:

**Definition:** Be able to work with others effectively and appreciate different perspectives and opinions regardless of their background, culture or divergent opinions, while fostering and promoting, not impeding or stifling, robust dialogue.

8. Self-awareness

**Definition:** Have a clear understanding of personal strengths, areas of development and potential biases, self-reflection, remaining open to feedback, continuous growth and improvement.

**Board Competencies (for the Board as a whole)**

- The nine competencies listed below are meant to be aspirational with the expectation that over time the Board will work to acquire the optimal competency mix. A definition for each competency is provided as well as a reference to other regulatory bodies that have adopted that same competency in their Board profile.
- It is understood that not all Board directors will excel in all the following recommended competencies. Rather, directors should bring skills and competencies that, when combined, provide the Board with a comprehensive competency profile.
- Knowledge and skill levels will vary among Board directors. It is anticipated that most Directors of the Board will be able to achieve a good understanding of all competencies within a short time frame after joining the Board, generally following orientation and some training.

1. Leadership

**Definition:** Demonstrates confidence and good judgment in inspiring, motivating, and offering direction and leadership to others. Conveys knowledge and understanding of consensus-building and uses effective facilitation techniques. Reinforces high standards of professionalism, accountability, integrity, commitment, and ethics. Fosters the values and commitments of COTO.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

2. Board and Governance Experience

**Definition:** Has experience with, or can demonstrate knowledge or expertise in, board governance in the private, public, and/or non-profit sector, through prior Board or committee service or reporting to or working with a Board as an employee. Clearly understands the distinction between the roles of the Board versus the role of management. Understands the role of the regulator versus a professional association.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

3. Regulatory Understanding

**Definition:** Knowledgeable and understanding of the regulatory environment required to meet legal, regulatory and governance requirements. Understands the public protection mandate of the College. Familiarity with the oversight of the occupational therapy profession in accordance with applicable legislation, regulations, bylaws and policies.

**Best Practice:** competency for competence for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

4. Knowledge of Occupational Therapy

**Definition:** Has knowledge and understanding of the occupational therapy profession including scope of practice and the standards of practice of the profession. Clearly understands key trends/developments in the profession and an understanding of legislation and regulation governing the profession.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

5. Risk Management

**Definition:** Experience with, or able to demonstrate knowledge and understanding of the risk management framework for identifying, measuring and managing significant risks and events that may impact the College's objectives.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

6. Stakeholder Relations

**Definition:** An understanding of the concept of public interest and how decisions that are made in the public interest may be viewed by stakeholders. Board willing to see things from a variety of perspectives, and can listen, understand, and respond to others.

**Best Practice:** competency for Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

7. Strategic Planning

**Definition:** Understands the importance of an organizational vision and the methods/processes for developing a collective vision. Ability to recognize the issues facing the College and set long terms goals and identify a process to achieving long term objectives, ensures risks are assessed and monitored. Experience leading a team to articulate a vision, identify strategic priorities, and oversee organizational performance.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

8. Financial Literacy

**Definition:** Experienced with, or is able to demonstrate knowledge or expertise in, accounting or financial management. This may include analyzing and interpreting financial statements, evaluating organizational budgets, and/or understanding of finance and generally accepted

accounting principles: can read, interpret, and ask questions about financial statements, applies a basic understanding of financial management to ensure the integrity of financial information received by the Board.

**Best Practice:** competency for AGRE, Nurses (ON), Dentists (ON), Teachers (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC), HPRO

9. Technological Competence

**Definition:** Be able to work electronically in order to uphold security, privacy and efficiency of the College's work.

**Best Practice:** competency for competency for AGRE, Nurses (ON), Dentists (ON), Psychotherapists (ON), Nurses (BC), Dentists (BC)

**Next Steps:**

- If the Board approves the proposed Board Competency Framework, all Board members will be asked to complete an online survey where they can anonymously provide information regarding their existing knowledge, skills, and experiences in order to get an overall sense of the range of skills and diversity currently on the Board.
- The Governance Committee would review and identify strengths and the competencies and experiences that are especially needed for the upcoming Board elections later this year and communicate competency needs to registrants who might be interested in running for upcoming elections.
- Once established, the proposed Competency Framework will inform other aspects including:
  - defining the competencies and experiences for individual statutory and non-statutory committees;
  - the development of an initial training program, recruitment process, and the criteria for candidate assessment for the Board or Committee appointments;
  - identify and address competency gaps for individual Board/Committee members and Board/Committee overall training and development; and
  - Evaluate individual Board/Committee member and overall Board/Committee performance.

**Attachment(s):**

1. Proposed College Board Competency Framework



**PROPOSED BOARD COMPETENCY FRAMEWORK**

<p><b>Attributes every Director will have or attain:</b></p>	<p><b>One or more Directors should have the following professional experience, knowledge and skills:</b></p>	<p><b>One or more Directors should have the following diverse perspectives, backgrounds and experiences needed by the Board to support strong decision-making in the public interest:</b></p>
<p><b>Accountability, Honesty and Integrity</b> Act with integrity and speak the truth, be able and willing to take full responsibility for decisions and follow through on commitments.</p>	<p><b>Leadership</b> Demonstrates confidence and good judgment in inspiring, motivating, and offering direction and leadership to others. Conveys knowledge and understanding of consensus-building and uses effective facilitation techniques. Fosters the values and commitments of COTO.</p>	<p><b>Professional Diversity</b> Occupational therapy practices are diverse and public and private sector contexts. The perspective of the different practice settings and areas of practice and contexts need to be present on the Board.</p>
<p><b>Collaborative, Open and Curious</b> Recognize that, in a complex system, what can emerge as a result of meaningful engagement and dialogue will be stronger than what is created in isolation. Be open to new ideas, new perspectives, and new ways of doing things, always bringing a learning mindset to decision-making.</p>	<p><b>Board and Governance Experience</b> Has experience with, or can demonstrate knowledge or expertise in, board governance in the private, public, and/or non-profit sector, through prior Board or committee service. Clearly understands the distinction between the roles of the Board versus the role of management. Understanding the role of the regulator versus a professional association.</p>	<p><b>Regional Diversity</b> Occupational therapy practices vary throughout the province and so does the experience of the public's interaction and expectations of the health care system. The perspectives of the various regions of the province on the Board is desirable.</p>
<p><b>Communicator</b> Be able to effectively and actively listen with the ability to express ideas, opinions and positions clearly.</p>	<p><b>Regulatory Understanding</b> Knowledgeable and understanding of the regulatory environment required to meet legal, regulatory and governance requirements. Understands the public protection mandate of the College. Familiarity with the oversight of the occupational therapy profession in accordance with applicable legislation, regulations, bylaws and policies.</p>	<p><b>Age Diversity</b> The board needs the perspectives of various age groups from both elected and appointed members.</p>

<p><b>Attributes every Director will have or attain:</b></p>	<p><b>One or more Directors should have the following professional experience, knowledge and skills:</b></p>	<p><b>One or more Directors should have the following diverse perspectives, backgrounds and experiences needed by the Board to support strong decision-making in the public interest:</b></p>
<p><b>Inclusivity</b> Create an environment and culture that welcomes diverse perspectives, new partners and ideas.</p>	<p><b>Knowledge of Occupational Therapy</b> Has knowledge and understanding of the occupational therapy profession including scope of practice and the standards of practice of the profession. Clearly understands key trends/developments in the profession and an understanding of legislation and regulation governing the profession.</p>	<p><b>Cultural Diversity</b> Occupational therapy practices are significantly influenced by culture. It is critical to have diverse cultural perspectives represented on the Board, specifically perspectives of the First Nations and other ethnic groups.</p>
<p><b>Objectivity</b> Be able to self-reflect and make decisions based on evidence and reliable and valid information, to best fulfil the public mandate.</p>	<p><b>Risk Management</b> Experience with, or able to demonstrate knowledge and understanding of the risk management framework for identifying, measuring and managing significant risks and events that may impact the College’s objectives.</p>	<p><b>Gender Diversity</b> The Board needs the perspectives of both women and men and people of non-binary genders in decision-making.</p>
<p><b>Public Interest Focus</b> Upholds the public’s right to safe, ethical care, demonstrated by an understanding and appreciation of, and commitment to, the public protection mandate and the time required to execute the role diligently. Recognizing that the public interest will always be prioritized over personal or professional interests.</p>	<p><b>Stakeholder Relations</b> An understanding of the concept of public interest and how decisions that are made in the public interest may be viewed by stakeholders. Board willing to see things from a variety of perspectives, and can listen, understand, and respond to others.</p>	
<p><b>Respectful</b> Be able to work with others effectively and appreciate different perspectives and opinions regardless of their background, culture or divergent opinions, while fostering and promoting, not impeding or stifling, robust dialogue.</p>	<p><b>Strategic Planning</b> Understands the importance of an organizational vision and the methods/processes for developing a collective vision. Ability to recognize the issues facing the College and set long terms goals and identify a process to achieving long term objectives, ensures risks are assessed and monitored. Experience leading a team to articulate a vision, identify strategic priorities, and oversee organizational performance.</p>	

<p><b>Attributes every Director will have or attain:</b></p>	<p><b>One or more Directors should have the following professional experience, knowledge and skills:</b></p>	<p><b>One or more Directors should have the following diverse perspectives, backgrounds and experiences needed by the Board to support strong decision-making in the public interest:</b></p>
<p><b>Self-Awareness</b> Have a clear understanding of personal strengths, areas of development and potential biases, self-reflection, remaining open to feedback, continuous growth and improvement.</p>	<p><b>Financial Literacy</b> Experienced with, or is able to demonstrate knowledge or expertise in, accounting or financial management. This may include analyzing and interpreting financial statements, evaluating organizational budgets, and/or understanding of finance and generally accepted accounting principles: can read, interpret, and ask questions about financial statements, applies a basic understanding of financial management to ensure the integrity of financial information received by the Board.</p>	
	<p><b>Technological Competence</b> Be able to work electronically in order to uphold security, privacy and efficiency of the College's work.</p>	



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Governance Committee  
**Subject:** Revised Code of Conduct for Directors and Committee Members

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Page 1 of 2

**Recommendation:**

*THAT Council approves the proposed Code of Conduct and that it be added as Schedule B to the College bylaws.*

**Issue:**

Council is asked to provide feedback on the proposed Code of Conduct for Directors and Committee Members.

**Public Interest in this Issue:**

The public is entitled to expect the highest standards of conduct from its Directors and Committee Members as they fulfil their governance roles in order to carry out the College's object of regulating the profession in the public interest.

**Alignment with Strategic Priorities:**

This aligns under Public Confidence:

- 1.3 College governance is responsive, effective, competency-based and accountable.
- 1.4 College decision-making processes are open, transparent, and accountable.

**Background:**

The College currently has two separate Codes of Conduct entitled "Council Member's Role and Code of Conduct" and "Non-Council Member's Role and Code of Conduct" approved in 2009 and have been annually reviewed every 3 years as part of the College's policy review process. There have been minimum changes ever since and the last review occurred in October 2019.

In 2019, the College underwent a Governance Review, conducted by Don McCreesh of the Garnett Group. In his presentation to Council, Mr. McCreesh outlined his findings on several governance areas and made recommendations including the consolidating the College's Code of Conduct into one document.

The steps taken in revising the Code of Conduct included benchmarking the College's Code of Conduct against other Colleges including Pharmacy, Optometrists, and Opticians as well as undergoing a legal review by Julie Maciura, College Legal Counsel.

### **Discussion:**

- The College's current Codes of Conduct are two separate documents, are part of the College's Governance Policies and are included in the attachment. The existing Governance Policies related to conduct are generally outdated, although they were useful in helping to frame the content of new proposed Code of Conduct.
- Several issues raised by the consultant created an opportunity for the Governance Committee to review and recommend to Council an updated Code of Conduct.
- The following changes have been:
  - Terminology has been updated, i.e., Council member is replaced with "Director"; Non-Council members are generalized to be replaced with the term Committee Members.
  - The proposed Code of Conduct is now one document and is applicable to both Directors and Committee Members.
  - Removed any reference to the previous Governance Policies and limitations which are due to be revised in the future to be in line with our modernized governance processes.
  - The proposed Code of Conduct builds from the existing one and is broken down into four core values (Fiduciary Duties, Accountability and Competence, Integrity, and Diversity and Inclusion) and the principles that exemplify them.
- Previously the Code was part of the governance policies, but it is of legal opinion and for transparency purposes, that the proposed the Code of Conduct be incorporated into the College bylaws as a new Schedule.
- There is no requirement under the Health Professions Procedural Code that the additional new Schedule be circulated for registrant and stakeholder feedback prior to enactment. It is proposed that the Schedule to the bylaws be enacted upon Council approval.

### **Next Steps:**

Once approved, the Code of Conduct will be added to the College bylaws as Schedule "B".

### **Attachment(s):**

1. Current Code of Conduct
2. Proposed Code of Conduct for Directors and Committee Members



<b>Policy Type:</b>	Governance Process
<b>Policy Title:</b>	Council Member's Role and Code of Conduct
<b>Reference:</b>	GP7
<b>Date Prepared:</b>	December 2009
<b>Date Revised:</b>	March 2010, October 2014, October 2019
<b>Date Reviewed:</b>	October 2016

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*Council members make decisions in the public interest, considering an understanding of the occupational therapy profession and environments in which it is practiced. Council commits itself and requires its individual Council members to lawful conduct and commonly accepted business and professional ethics, including proper decorum and use of authority, when acting as Council members.*

Accordingly, to the extent feasible in the circumstances,

1. Council members will serve on Council and at least one statutory committee to which they are appointed.
2. Council members will contribute constructively to Council and committee meetings, in part by reviewing all material in advance and by developing and maintaining knowledge of College functions and issues facing Council.
3. Council members will participate in orientation through the College.
4. Council members will publicly support all the decisions taken by Council.
5. Council members must represent unconflicted loyalty to the interests of the College and its public interest mandate. This accountability supersedes any conflicting loyalty to any specific interest group and membership on any other governing board. It also supersedes the personal interests of any Council member.
6. Council members must avoid conflict of interest (as stated in the bylaws) with respect to their fiduciary responsibilities:
  - a. There must be no self-dealing or any conduct of private business or personal services between any Council member and the College except as procedurally controlled to assure openness, competitive opportunity, and equal access to inside information.
  - b. When Council is to decide upon an issue about which a Council member has an unavoidable conflict of interest, that Council member will absent him or herself without comment not only from the vote but also from the deliberation and shall not otherwise try to influence the result.
  - c. Council members may not use their positions to obtain employment, with the College or its agents, for themselves, family members or close associates.
  - d. Council members will annually disclose their involvement with other organizations that might produce a conflict or perceived conflict.
  - e. Should a Council member wish to be considered for employment with the College he/she must resign from Council.
7. Council members cannot attempt to exercise individual authority over the organization.
  - a. Council members' interactions with the Registrar or with staff must recognize the lack of authority vested in individuals except when explicitly Council-authorized.
  - b. Similarly, Council members' interactions with the public, press or other entities must recognize the same limitations.



8. Council members will respect the confidentiality inherent in their role (see GP13).
9. Council will disqualify a member from sitting on the Council if the member fails to meet the criteria outlined in the College's bylaws:
  - a. An elected member who is disqualified from sitting on the Council ceases to be a member of the Council.
  - b. An appointed Academic member who is disqualified from sitting on the Council ceases to be a member of the Council.
  - c. As public members are appointed by the Lieutenant Governor, if the member fails to persistently meet criteria outlined in the College bylaws and policies, an appropriate recommendation will be made to the Public Appointment Secretariat.

Old Version



## CODE OF CONDUCT

### Acknowledgement and Agreement For Council Members and Non-Council Committee Members

I, \_\_\_\_\_, acknowledge that I have read and understood policy GP7 "*Council Member's Role and Code of Conduct*" and/or GP8 "*Non-Council Committee Member's Role and Code of Conduct*."

I agree to abide by these policies and the implied Code of Conduct.

I further acknowledge and agree that my obligations under the Code of Conduct continue beyond the expiration of my tenure as a Council member or as a non-Council committee member of the College.

Signature \_\_\_\_\_ Witness \_\_\_\_\_

Date: \_\_\_\_\_



<b>Policy Type:</b>	Governance Process
<b>Policy Title:</b>	Non-Council Member's Role and Code of Conduct
<b>Reference:</b>	GP8
<b>Date Prepared:</b>	December 2009
<b>Date Revised:</b>	March 2010, October 2019
<b>Date Reviewed:</b>	October 2016

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*Non-Council Committee members make decisions in the public interest, considering an understanding of the occupational therapy profession and environments in which it is practiced. Council commits itself and requires its individual non-Council committee members to lawful conduct and commonly accepted business and professional ethics, including proper decorum and use of authority, when acting as non-Council committee members.*

Accordingly,

1. Non-Council committee members are working participants of Council committees and, as such, facilitate the achievement of desired outcomes as approved by Council.
2. Non-Council committee members will contribute constructively to committee meetings, in part by reviewing all material in advance and by developing and maintaining knowledge of issues related to the work of the committee and, where appropriate, to the College as a whole.
3. Non-Council committee members will participate in orientation by the College.
4. Non-Council committee members will publicly support all the decisions taken by the committee.
5. Non-Council committee members must avoid conflict of interest (as stated in the bylaws) with respect to their fiduciary responsibilities.
  - a. There must be no self-dealing or any conduct of private business or personal services between any non-Council committee member and the College except as procedurally controlled to assure openness, competitive opportunity, and equal access to inside information.
  - b. When the committee is to decide upon an issue about which a non-Council committee member has an unavoidable conflict of interest, that non-Council committee member will absent him or herself without comment not only from the vote but also from the deliberation.
  - c. Non-Council committee members may not use their positions to obtain employment, with the College or its agents, for themselves, family members or close associates.
  - d. Non-Council committee members will annually disclose their involvement with other organizations that might produce a conflict or perceived conflict.
  - e. Should a non-Council committee member wish to be considered for employment with the College he/she must resign from the committee.
6. Non-Council committee members may not attempt to exercise individual authority over the organization.
  - a. Non-Council committee members' interactions with the Registrar or with staff must recognize the lack of authority vested in individuals except when explicitly Council-authorized.



- b. Similarly, non-Council committee members' interactions with the public, press or other entities must recognize the same limitations.
7. Non-Council committee members will respect the confidentiality inherent in their role (see GP13).
8. Council will disqualify a non-Council member appointed to a committee of the College from sitting on the committee if the member fails to meet the criteria outlined in the College's bylaws and these policies.

Old Version

**College of Occupational Therapists of Ontario**  
**College Bylaws – Schedule B**  
**Proposed Code of Conduct for Directors and Committee Members**

**Purpose**

This document establishes the Code of Conduct (Code) for Directors and Committee Members as they work to meet their public protection mandate, support strong governance practices, and safeguard the integrity of the College.

**Application**

As leaders of the College, Directors and Committee Members must always earn and preserve the confidence of the public by demonstrating a high standard of ethical and professional conduct. All Directors and Committee Members shall conduct themselves ethically, respectfully and lawfully, and act in a manner that is consistent with the College's statutory mandate to regulate occupational therapy in the public interest.

The Code applies to all Directors and Committee Members and is broken down into four core values and the principles that exemplify them.

**1. Fiduciary Duties**

Directors and Committee Members stand in a fiduciary relationship to the College and they must:

- 1.1 Act honestly, in good faith, and in the best interest of the College consistent with its mandate to protect the public and this duty supersedes any loyalties to other organizations, associations, persons or personal or professional interests.
- 1.2 Uphold the decisions made by a majority of the Board and Committees, regardless of the level of prior disagreement.
- 1.3 Adhere to the College's established governance model.

**2. Accountability and Competence**

Directors and Committee Members are accountable to the public for their decisions and actions and they must:

- 2.1 Exercise all powers and discharge all responsibilities in good faith and in the best interests of the College consistent with its mandate to protect the public.
- 2.2 At all times conduct themselves in a way that protects the College's reputation, and in particular, act with fairness, honesty, and integrity.
- 2.3 Be familiar and comply with the provisions of the *Regulated Health Professions Act, 1991* ("RHPA") and its regulations and the Code, the *Occupational Therapy Act 1991* and its regulations, and the bylaws and policies of the College.
- 2.4 Participate in all required orientation and training sessions.
- 2.5 Regularly attend all Board or Committee meetings, being on time and engaging constructively in discussions in a respectful and courteous manner, recognizing the diverse background, skills and experience of all other Directors, Committee Members and staff.

### **3. Integrity**

Directors and Committee Members are committed to maintaining the highest standards of professional and personal conduct and they must:

- 3.1 Conduct themselves in a manner that respects the integrity of the College by striving to be fair, impartial and unbiased in their decision making.
- 3.2 Avoid and, where that is not possible, declare any appearance of or actual conflicts of interest and comply with College bylaws and policies relating to conflict of interest.
- 3.3 Preserve confidentiality of all information before the Board or Committee unless disclosure has been authorized by the Board or is otherwise permitted under the RHPA.
- 3.4 Maintain appropriate decorum during all Board and Committee meetings by adhering to the rules of order adopted by the Board.
- 3.5 Refrain from speaking, or appearing to speak, on behalf of the College, unless explicitly authorized to do so by the Chair or Registrar.
- 3.6 Refrain from engaging in any discussions with other Directors or Committee Members that take place outside the formal Board or Committee decision making process that are intended to influence the decisions that the Board or a Committee makes on matters that come before it.
- 3.7 Respect the boundaries of staff whose role is not to report to or work for individual Director or Committee Members including not contacting staff members directly except on matters where the staff member has been assigned to provide administrative support to the Board or Committee or where otherwise appropriate.
- 3.8 Maintain appropriate boundaries with all other Directors, Committee Members and staff, including refraining from behaviour that may reasonably be perceived as discriminatory or as verbal, physical or sexual abuse or harassment, and intervening when observing such behaviour by others.

### **4. Diversity and Inclusion**

Directors and Committee Members lead by example to support and respect the individuality and personal values of their colleagues and staff, they must:

- 4.1 Promote a culturally safe environment, recognizing and supporting inclusiveness and diversity of all people.
- 4.2 Be respectful of different viewpoints that may be expressed, in good faith, by other Directors and Committee Members during Board or Committee deliberations.
- 4.3 Support an environment for Directors, Committee Members, staff, registrants and stakeholders that is free from bullying, harassment, sexual or otherwise, or physical contact, psychological, verbal or physical abuse, threats or violence.



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Nabila Mohammed, Director, Finance and Corporate Services  
Elizabeth Goff, Project Manager  
**Subject:** Enterprise Systems Project – Phase 2 Update **IN CAMERA**

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Please refer to separate attachment.



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Executive Committee  
**Subject:** Document Review – Use of Social Media

**Recommendation:**

*THAT Council approves the revised Use of Social Media document for publication.*

**Background:**

The Practice Guideline: Use of Social Media was originally issued in 2014. The College developed this guideline to support occupational therapists in their use of social media in a safe and ethical manner. At the time the original document was developed, the College in collaboration with several other regulators developed an online learning module titled Use of Social Media: Pause before your Post. The information in this E-learning module is now outdated, once the revised document is approved and published, the module will be retired.

**Public Interest in this Issue:**

Occupational therapists using social media in their practice must uphold the associated College standards, comply with privacy legislation, and always act responsibly online. Any misuse of social media can undermine public trust and reflect poorly on the profession.

**Summary of Work**

Date	Committee	Outcome
May 22, 2020	<b>Practice Issues Subcommittee</b>	<ul style="list-style-type: none"> <li>• Subcommittee provided with internal and external environmental scan information, and website analytics</li> <li>• Subcommittee provided feedback on the format and content of the current publication to inform the first revision</li> </ul>
Nov 25, 2020	<b>Practice Issues Subcommittee</b>	<ul style="list-style-type: none"> <li>• First draft presented to Subcommittee</li> <li>• Additional feedback provided: rearrange sections, include a reference to conflict of interest and advertising</li> </ul>
Feb 4, 2021	<b>Practice Subcommittee</b> (renamed in 2021).	<ul style="list-style-type: none"> <li>• Second draft presented to subcommittee</li> <li>• Document streamlined</li> <li>• This version includes reference to language, and tone when using social media and avoiding boundary crossings such as private messaging</li> <li>• Subcommittee approved document for Executive review</li> </ul>

Date	Committee	Outcome
March 4, 2021	<b>Executive Committee</b>	<ul style="list-style-type: none"> <li>Approved document for Council review.</li> </ul>

### **Website Analytics**

The Practice Guideline: Use of Social Media has been viewed 387 times over the past two years from February 2019 to February 2021. There has been an 46% increase in views of this document over the past year.

### **Investigations, Complaints and Resolutions**

To date there has only been one complaint to the College regarding use of social media by an occupational therapist.

### **External Scan**

The recommendations for practice outlined in the revised document are consistent with the guidance issued by other regulatory Colleges. Recognizing the blurred lines between professional and private social media presence, professionalism, boundaries, privacy of clients, and pausing before posting are concepts discussed in the revised document.

### **Key Changes to the Revised Document:**

1. **Title Change** - To align with the newly approved College Document Framework, use of term guidelines has been removed from the title.
2. **Streamlined** – Outdated information and terminology has been removed to improve the flow of the document.
3. **New Social Media Definition**
4. **New Statements** – Document includes statements about: Conflict of Interest, Advertising, copyright, language and tone when using social media and the avoidance of providing specific clinical advice.
5. **Professional Boundaries** – includes a statement about avoiding private messaging to prevent boundary crossing.
6. **Social Media Policy** – additional considerations for occupational therapists developing a policy.

### **Decision:**

Council is asked to review and approve the Use of Social Media document for publication. As this document is for guidance and is not a standard of practice, circulation to registrants for feedback is not the usual process. In addition, this document is a revision and not new.

### **Implications:**

Once approved, a final communications review will be completed prior to publication.

**Attachment(s):**

1. Current Guidelines for Use of Social Media
2. Revised draft document, Use of Social Media



# Practice Guideline: Using Social Media

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Old Version

February 2014

Reformatted: August 2018

## Introduction

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More regulated health professionals than ever before are using social media. At the same time, concerns are growing about the potential of these digital technologies to damage the reputation of health care organizations and threaten the privacy of client information. Occupational therapists are advised to refer to the College of Occupational Therapists of Ontario's (the College's) Code of Ethics and practice standards for guidance on how to use social media in a way that is congruent with the values and standards of the profession. OTs using social media in their practice are required to apply the College's legislation, standards and principles in a responsible, intentional manner at all times.

### What is Social Media?

Social media are digital technologies and practices that enable people to use, create and share content, opinions, insights, experiences and perspectives, build relationships and promote discussion. The hallmark of social media is user-generated content and interaction. This document will focus on social media such as Google +, Facebook, Twitter, ZoomInfo and LinkedIn. That is not to say that there aren't a number of emerging digital technologies that will continue to be developed.

Each social media platform has its own style and reputation. LinkedIn, for instance, is predominantly a formal business site. Blogging and micro-blogging sites, such as Twitter, are informal and use slang or texting abbreviations; for example, "LOL" for laugh out loud.

Using social media in occupational therapy practice offers numerous benefits. It can foster collegial relationships and enable OTs to widely disseminate information. Social media can also help OTs to coordinate care with other practitioners and further their professional education. When using social media for professional and personal purposes, OTs need to carefully consider how to maintain professional boundaries, prevent conflicts of interest, avoid breaches of confidentiality, and maintain trust and confidence in the profession.

This practice document guides OTs in using social media safely and ethically. As a College guideline, it describes recommended practice, and is intended to enhance and support prudent practice.

While only employees of an organization may be able to access internal social media, colleagues and clients are able to view external social media. In addition, new social media vehicles are being developed all the time.<sup>1,2</sup>

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<sup>1</sup> Corporate Policy 407, Pfizer, (2012).

<sup>2</sup> Central Office of Information, UK, (2009).

## Practice Guideline: Using Social Media

The use of email is not included in this guideline. It has been addressed in the Standards for Record Keeping.

The College participated in an inter-college collaboration on the development of an E-learning module entitled *Pause Before You Post: Social Media Awareness for Regulated Healthcare Professionals*, which can be found on the College website.<sup>3</sup>

Please refer to *Appendix 1* for a glossary of social media terms.

## Maintaining Professionalism

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With social media, the line between public and private, professional and personal is easily blurred. While there is a distinction between an OT's professional and private life, an OT's poor judgment in his or her personal life may reflect not only on the individual therapist, but on the profession. Occupational therapists are expected to maintain professionalism at all times in occupational therapy practice. This is consistent with Farnan, et al, (2013)<sup>4</sup>, who similarly states that professionalism is the foundation for the social contract between physicians and society, and that societal expectations often extend beyond professional practice and into the daily activities of the physician. Poor judgement reflects not only on the individual physician but also on the profession. This statement also reflects, and is congruent with the College's position on the professionalism of occupational therapists.

Occupational therapists should be aware that perception can be taken as reality on online social networks, and that the lines between public and private, personal and professional, are easily blurred in social media. Careful consideration should be given to the use of social media for OT practice, as well as for personal use.

Before creating an online professional presence, reflect on why you are using social media in your practice. Ask yourself, "Am I using social media to enhance client learning or to satisfy a personal need?" Before using social media for advertising and marketing, review the College's *Standards for Prevention and Management of Conflict of Interest*, and the advertising section in the College's General Regulation. Carefully consider the positive and negative implications of using a social media site where anyone can freely advertise at no cost.

Some examples of positive implications are that by using a social media program, the OT can reach a large number of potential clients; the OT can foster collegial relationships with other health professionals, and can widely disseminate health education to clients or potential clients on a clinical issue. Examples of some negative impacts are that information on social media sites may be manipulated by others and run the risk of an inadvertent breach of privacy and confidentiality of the client or the OT, risks of reputational damage when clients don't know how to correctly apply

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<sup>3</sup> *Pause Before You Post: Social Media Awareness for Regulated Healthcare Professionals*, COTO website (2013).

<sup>4</sup> Jeanne M. Farnan, MD, et al. (2013). *Position Paper of the American College of Physicians. Online Medical Professionalism Patient and Public Relationships: Policy Statement From the American College of Physicians and the Federation of State Medical Boards*, *Annals of Internal Medicine*. 158(8):620-627

## Practice Guideline: Using Social Media

information found online to their personal health situation and might err in carrying out the OT's advice. Whenever an OT uses his or her professional designation online, the OT is viewed as acting in a professional capacity.

Therapeutic relationships with clients should be the same online as they are in person. For example, clearly establish and maintain appropriate boundaries by keeping your personal social media pages separate from your professional pages. Do not invite personal relationships onto your professional pages. Similarly, do not invite professional relationships onto your personal pages. "Friending" or disclosing personal information to a client online can blur professional boundaries and may be considered a dual relationship. For more information, refer to the College's *Standards for Professional Boundaries*.

Whether on a personal or professional social media site, make it a habit to use the principle, **Pause Before You Post, Reflect Before You Click**. In social media, only post comments and photos that you are willing to make public. Before you save, send or post a comment, ask yourself, "Would I want this information printed in a newspaper, plastered on a billboard or broadcast on TV?" If the answer is no, reword the comment or don't post it at all. Similarly, before posting a photo or video, ask yourself, "Is this susceptible to misrepresentation or manipulation?" If the answer is yes, refrain from posting it. With social media, it's better to err on the side of caution.

Once you disclose personal information online, it may be impossible to completely retract it from the internet. This means there is a high potential for social media sites to use content even when the author deletes it, or does not give explicit consent for its use. Once information is digitized, the author relinquishes all control.<sup>5</sup>

OTs also need to recognize that there is a high risk that anonymous postings no longer exist on the internet. With the ever-increasing sophistication of search engines, the ability to link posts or comments to the original contributor has never been easier.

## Ensuring Client Privacy and Confidentiality

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OTs must apply the relevant privacy legislation to the social media environment. OTs practising in a hospital must adhere to the *Freedom of Information and Protection of Privacy Act* (1990), and those working for local government organizations need to follow the *Municipal Freedom of Information and Protection of Privacy Act* (1990). All OTs need to be vigilant in complying with the *Personal Health Information Protection Act* (PHIPA, 2004).

To protect client privacy and confidentiality, OTs must not post a client's personal health information on a social media site, nor should they post testimonials. For example, while a client may be eager to add

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<sup>5</sup> Professional Advisory, *Use of Electronic Communication and Social Media*, Ontario College of Teachers (2011).

## Practice Guideline: Using Social Media

a testimonial to an OT's Facebook page, by giving their name, the client is revealing confidential personal information. The OT should explain to the client that as per the Advertising Regulation, that the College does not allow testimonials and that the posting would be a risk to the client's privacy.

OTs are advised to obtain informed consent regarding client participation with the OT in social media. As stated in the College's *Standards for Consent*, the OT should discuss the parameters of the consent with the client and document the discussion in the client record. It would also be prudent not to use social media to comment on, or tag or identify a client, colleague or other individual without the person's consent.

Most social media platforms allow the user to place constraints on those who can view the page. Learn how to use these privacy settings and controls to restrict access to your pages. To activate high-level security, review the detailed instructions in the privacy section of the social media platform or on other online resources. OTs should appreciate that no privacy mechanism is fully guaranteed. It is not always possible to control who views your social media postings.

OTs also need to review the confidentiality rules used on external access to information posted on the document sharing sites or virtual storage sites, such as Dropbox. If using these sites professionally, always review the privacy agreement before clicking on the **I accept the terms** button.

## Avoiding a Conflict of Interest

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Prior to posting on the social media site of a third-party supplier, vendor or other private company, the OT should examine the possibility of the posting causing a conflict of interest. Consider for example, a vendor asking an OT to blog on an educational topic on the vendor's website. If the OT's blog appears on the same page as a testimonial from a user of the vendor's products, it may be perceived that the OT is recommending the vendor's products, resulting in a perceived conflict of interest.

To recognize a potential conflict of interest on a social media page or platform, ask yourself, "Is anything competing with the duty to treat clients in a professional capacity? What would a colleague or neutral observer think of an OT posting here?" When participating in social media, OTs must apply the College's *Standards for Prevention and Management of Conflict of Interest*.

## Monitoring Your Online Presence

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Consider dedicating resources to screening, filtering, monitoring and responding to postings, blogs, tweets and Rich Site Summary feeds, such as automatic updates of podcasts, e-newsletters and electronic direct mail. The OT should also check his or her social networking circle to see who is accessing and posting comments and content. If a friend has posted photos that do not reflect the OT's professionalism, the OT needs to ask the friend to remove them. If a client has posted a testimonial, the

## Practice Guideline: Using Social Media

OT is accountable for the breach of client confidentiality. After alerting the client, the OT needs to remove the testimonial from the site.

OTs also need to regularly review their social networking sites, as well as the business and human resources sites, such as ZoomInfo and LinkedIn. In addition, it is prudent to monitor your name on search engines, such as Google. Some information that is posted about you might be completely fictional. Alternatively, you may find information attributed to you that refers to someone who has the same name as you. The OT may need to take steps to clarify, remove or correct any inaccuracies and document the steps taken.

This kind of issue may pose a professional risk to the OT. Some OTs maintain a Risk File in which they keep occurrences and issues of potential professional risk, in order to have a paper trail outlining a description of the risk, and what steps the OT has taken to mitigate that risk. This kind of record keeping provides a prudent approach to pro-active risk management.

## Communicating Online

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When using social media for professional communication, be transparent and respectful. Only share what you would say face-to-face to an individual or group; do not make unauthorized or personal disclosures. Your comments reflect your values and beliefs and affect the reputation of your health care organization and your profession.

Professionalism is reflected in the OT's choice of language and posted images. Consider that the use of abbreviations, acronyms and medical terminology may cause confusion and be misunderstood. Communicating with incomplete sentences can also detract from the clarity of the message.

OTs using social media are advised to determine the required documentation practices and maintenance of communications, following the College's *Standards for Record Keeping and the Essential Competencies of Practice for OTs in Canada*, 3rd edition.

Social media platforms are useful for introductions and initiating professional relationships, but when possible, take the dialogue offline. Some individuals have a rule that after three online interactions, they move the communication to a phone conversation or face-to-face meeting. In-person conversations allow a more complete understanding because they offer additional information from the person's tone of voice, other non-verbal cues and body language.

Social networking sites allow OTs to send messages and invitations en masse. Since customizing communication to a client demonstrates professionalism and supports the therapeutic relationship, consider whether mass messages are always appropriate.

## Organizational Considerations

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To mitigate the potential risks of using social media, it would be prudent for OTs who own an occupational therapy business or who are in private practice to develop a policy for social media use. (See References for examples of social media policies.) Employers should consider a training plan for employees to reinforce their social media policy and encourage entries based on the company or practice's values and ethics. This training should be ongoing to reinforce the organization's guiding principles in its social media strategy.

OTs who are employees should know their employer's philosophy, policy, procedures and proprietary information on social media. Some hospitals and health care facilities have a policy to monitor all social media communications involving the organization's name, logo and identity. Obtain permission before using logos, or posting corporate information or links to other sites.

Social media policies may restrict referencing the organization on websites and require staff to speak in first person and make it clear they are speaking for themselves and not on behalf of the organization. Some health care organizations ask employees to use a disclaimer such as, "The views expressed are my own and do not necessarily reflect the views of my employer".<sup>6,7</sup>

An OT who hosts a social media site unrelated to his or her practice setting may use a variation of a disclaimer on the site's home page. The disclaimer could, for example, state "that the opinions expressed do not represent the opinions and views of the employee's professional organization, but convey the personal view of the creator."<sup>8</sup>

## Conclusion

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Farris Timimi, 2012<sup>9</sup>, encourages social media use and offers a simple social media policy.

### 12 Word Social Media Policy

*Don't Lie, Don't Pry, Don't Cheat, Can't Delete, Don't Steal, Don't Reveal.*

The straightforward message of his article is that the same general rules and values that apply to offline professional behavior apply to online behavior. The difference is the online platform can leverage a mistake to a much wider audience.

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6 Sunnybrook Health Sciences Centre, (2012). *Social Media: Policy and Guidelines for Use*.

7 University Health Network, (2011). *Policy and Procedure Manual, Administrative- Information Security and Appropriate Use of Technology*.

8 Washington University School of Medicine, St Louis, Sept., 2012. *Addendum to the Washington University in St. Louis, Social Media Policy*.

9 Timimi, F. MD. (2012). *A 12-word Social Media Policy, Mayo Clinic Center for Social Media*.

This basic principle underscores why OTs should develop a social media policy. Know the risks and behave accordingly. OTs can use these 12 words as the foundation for their social media policy.

Remember the common principle, ***Pause Before You Post and Reflect Before You Click***.

This guideline provides basic information for occupational therapists who use social media professionally and personally. In addition to following the College's standards and guidelines, the references offer the OT additional relevant and more detailed advice upon which to base their practice when using social media.

## Appendix 1

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### Glossary<sup>10</sup>

**Blogs:** A website containing the writers or group of writers' own commentaries, experiences, observations, opinions, etc., often having images and links to other similar websites.

**Conflict of Interest:** When the OT has a relationship or interest, which could be seen by a reasonable person as improperly influencing their professional judgment or ability to act in the best interest of the client. Conflicts of interest may be actual, potential or perceived. Often viewed in terms of monetary benefits, or may also be a result of a boundary-crossing or violation, such that the OT is meeting his/her own needs in the relationship to the detriment of the client, either immediately or in the future.

**Podcasts:** A digital media audio or video file or recording usually part of a themed series that can be downloaded from a website to a media player or computer. Audio files that are shared online and meet three criteria; first, that it is episodic; second, that is downloadable; third, that it is program-driven, mainly with a host and/or theme.

**RSS:** Rich Site Summary, a format for delivering regularly changing internet content.

**Social Bookmarking:** Sites which allow users to share, organize, search, and manage links to internet resources. The practice of saving bookmarked web pages to a public website is a way to share the links with other internet users.

**Social Media:** Digital technologies and practices that enable people to use, create, and share content, opinions, insights, experiences, and perspectives. Social media can take many forms, including text, images, audio, video, and other multi-media communications. Popular examples include blogs, social networking websites such as Facebook and Twitter, and YouTube.

**Social Networking:** The development of social and professional contacts; the sharing of information

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10 ICompConsulting, (2013) *Pause Before You Post: Social Media Awareness for Regulated Healthcare Professionals*, Inter-College Social Media eLearning Module.

and services amongst people with a common interest.

**Twitter:** A free social networking website that allows users to micro-blog; a blog that contains brief entries about the daily activities of an individual or company.

**User Forums:** A meeting or medium where ideas and views on a particular issue can be exchanged and where members discuss issues according to pre-defined topics. Each discussion has opportunity for response from other members of the forum and is normally maintained in reverse chronological order. Members may also create user profiles and send each other private messages similar to a social network, however the focus of a user forum remains strongly centred on threaded discussions.

**Wiki:** A piece of server software and website that allows users to freely create content that can be collaboratively edited using any web browser. Wiki supports hyperlinks and has a simple text syntax for creating new pages and cross-links between internal pages. Wikis are often used to create collaborative websites, to power community websites, for personal note taking, in corporate intranets, and in knowledge management systems. Popular wikis include Wikipedia and Wikia.

## Appendix 2

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### Why You Should Surf the Web Incognito<sup>11</sup>

Condensed from an article by Marc Saltzman, *Toronto Star*, Monday, August 13, 2012.

Marc Saltzman's article in the *Toronto Star*, Monday, August 13, 2012, cautions users to be aware that their online activities are not private. He explains that one's surfing sessions are tracked by websites, search engines and social networks, and often by one's internet service provider, government and potentially hundreds of tracking companies. He further states that the typical user wants to protect themselves from all types of malicious users.

For example, Facebook shows ads for various products, tuned into the user's needs, such as an ad for your local gym, because as your computer's unique internet protocol (IP) address, assigned by your internet service provider, reveals your geographical whereabouts. Saltzman recommends searching out and purchasing new technological products which can protect the user, such as, free "online proxy servers" that conceal one's identity, or use virtual private network software, that encrypts your online sessions. There is other software that defends one against internet surveillance that threatens personal freedom and privacy.

Saltzman also reports some social media sites have recently released features that prohibit the service from collecting information about its users, and that there are a number of "do not track" tools, and plug-ins being currently released for sale.

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<sup>11</sup> Used with permission of Marc Saltzman, freelance journalist and author.

## Appendix 3

### Online OT Activities<sup>12</sup>

This table, originally developed for physicians with the title “Online Physician Activities: Benefits, Pitfalls, and Recommended Safeguard in the United States”, has been adapted for occupational therapists who use social media.

Activity	Potential Benefits	Potential Pitfalls	Recommended Safeguards
<b>Communications with clients using texting, and instant messaging</b>	<p>Greater accessibility</p> <p>Immediate answers to non-urgent issues</p>	<p>Confidentiality concerns</p> <p>Replacement of face-to-face or telephone interaction</p> <p>Ambiguity or misinterpretation of digital interactions</p>	<p>Establish guidelines for types of issues appropriate for digital communication</p> <p>Reserve digital communication only for clients who maintain face-to-face follow-up</p> <p>Refer to the College’s <i>Standards for Record Keeping</i></p>
<b>Use of online educational resources and related information with clients</b>	<p>Encourage patient empowerment through self-education</p> <p>Supplement resource-poor environments</p>	<p>Non–peer-reviewed materials may provide inaccurate information</p> <p>Scam client sites that misrepresent therapies and outcomes</p>	<p>Vet information to ensure accuracy of content</p> <p>Refer clients only to reputable sites and sources</p>
<b>OT-produced blogs, microblogs, and OT posting of comments by others</b>	<p>Advocacy and public health enhancement</p> <p>Introduction of OT “voice” into such conversations</p>	<p>Negative online content, such as “venting” or ranting, that disparages clients and colleagues and employers</p>	<p>“Pause before posting”</p> <p>Consider the content and the message it sends about an OT as an individual and the profession</p>

<sup>12</sup> Jeanne M. Farnan, MD, et al. (2013). Position Paper of the American College of Physicians. *Online Medical Professionalism Patient and Public Relationships: Policy Statement From the American College of Physicians and the Federation of State Medical Boards*, *Annals of Internal Medicine*. 158(8):620-627

<b>OT posting of his/her personal information on public social media sites</b>	Networking and communications	Blurring of professional and personal boundaries  Impact on representation of the individual and the profession	Maintain separate personas, personal and professional, for online social behavior  Scrutinize material available for public consumption
<b>OT use of digital venues for communicating with colleagues about client care</b>	Ease of communication with colleagues	Confidentiality concerns  Unsecured networks and accessibility of protected health information	Implement health information technology solutions for secure messaging and information sharing  Follow institutional practice and policy for remote and mobile access of protected health information

## Appendix 4

### Best Practices: Ten Key Elements of a Good Social Media Policy by Russell Herder, and Ethos Business Law<sup>13</sup>

Following are Russell Herder’s ten key headings of a good social media policy which will be of assistance for occupational therapists using social media as part of their practice. OTs may wish to develop their own social media policy for themselves and their employees. These 10 key elements are congruent with the College’s standards and guidelines for practice.

1. Overall philosophy
2. Honesty and Respect
3. Confidential and Proprietary Information
4. Online Identity
5. Focus on Job Performance
6. Avoid Conflicts of Interest
7. Include a Disclaimer
8. Monitoring
9. Universal Application
10. Other Policies

<sup>13</sup> *Ten Key Elements of a Good Social Media Policy* by Russell Herder, and Ethos Business Law, (2009). *Social Media: Embracing the Opportunities, Averting the Risks*. Information found online.

## Legislative & College References

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### Legislative References

*Occupational Therapy Act, 1991*

*Regulated Health Professions Act, 1991*

*Personal Health Information Protection Act, 2004*

*Freedom of Information and Protection of Privacy Act, 1990*

*Municipal Freedom of Information and Protection of Privacy Act, 1990*

### College References

*General Regulation, Official Regulation, Part V: Advertising (2001)*

*Standards for Consent (2008)*

*Standards for Record Keeping (2008)*

*Standards for Professional Boundaries (2009)*

*Standards for Prevention and Management of Conflict of Interest (2012)*

*Code of Ethics (2012)*

## References

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1. *Pfizer's Policies on Business Conduct*, (The Blue Book), (2012). Includes Corporate Policy, 407, on Social Media.
2. Central Office of Information, (2009). *Engaging Through Social Media: A Guide for Civil Servants*. Available: [http://coi.gov.uk/documents/Engaging\\_through\\_social\\_media.pdf](http://coi.gov.uk/documents/Engaging_through_social_media.pdf)
3. *Pause Before you Post: Social Media Awareness for Regulated Health Professionals*, COTO website (2013).
4. Jeanne M. Farnan,, MD, et al. (2013). Position Paper of the American College of Physicians. *Online Medical Professionalism, Patient and Public Relationships: Policy Statement From the American College of Physicians and the Federation of State Medical Boards*, *Annals of Internal Medicine*. 158(8):620-627.
5. Professional Advisory. (2011). *Use of Electronic Communication and Social Media*, Ontario College of Teachers.
6. Sunnybrook Health Sciences Centre, (2012). *Social Media: Policy and Guidelines for Use*
7. University Health Network, (2011). *Policy and Procedure Manual, Administrative Information Security and Appropriate Use of Technology*.
8. Washington University School of Medicine, St Louis, Sept., 2012. Addendum to the Washington University in St. Louis, Social Media Policy.
9. Timimi, F. MD. (2012). *A 12-word Social Media Policy*, Mayo Clinic Center for Social Media.
10. ICompConsulting,(2013) *Pause Before You Post: Social Media Awareness for Regulated Healthcare Professionals*, Inter-College Social Media eLearning Module.

## Practice Guideline: Using Social Media

11. Marc Saltzman, (2012). *Why You Should Surf the Web Incognito*, Toronto Star, used with permission of Marc Saltzman, freelance journalist, author, consultant, whose specialties are in consumer electronics, computers, internet trends, technology and interactive entertainment.
12. Russell Herder, (2009). *Ten Key Elements of a Good Social Media Policy. Ethos Business Law. Social Media: Embracing the Opportunities, Averting the Risks.*

## Resources

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The following resources provide occupational therapists with relevant information on the use of social media.

Change Foundation. (2011). *Using Social Media to Improve Healthcare Quality: A Guide to Current Practice and Future Promise*. Available at: <http://www.changefoundation.ca/docs.socialmediatoolkit.pdf>

Davis, M, and Stark, A. Editors. (2001). *Conflict of Interest in the Professions*.

*Professionalism : Social Media Outreach.*, (2012). CMAJ, 184 (11)

Sutter Health, (2011). *Social Media Tip Sheet for Sutter Health Network Employees*

Symplur, LLC. (2012). *Connecting the Dots in Healthcare Social Media*

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College of Occupational Therapists of Ontario  
Ordre des ergothérapeutes de l'Ontario

# Use of Social Media

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Proposed Version

Revised March 2021

Originally Issued February 2014

## Use of Social Media

### Public Protection

Social media refers to all "web-based and mobile applications that allow individuals or organizations to create, share and communicate content quickly through user-generated digital environments using multi-way communication."<sup>1</sup> Some social media platforms enable users to share links and written messages, while others allow for sharing of photos and videos. This document outlines the principles for occupational therapists' safe and ethical use of social media. If occupational therapists are not attentive, the use of social media can adversely impact the public and profession. Any misuse of social media can undermine public trust and reflect poorly on the profession. Occupational therapists using social media in their practice must uphold the College standards, comply with privacy legislation, and always act responsibly online.

### Benefits of Social Media

The use of social media by occupational therapists can offer numerous benefits. It can foster collegial relationships and enable occupational therapists to disseminate information quickly and widely. Social media can also help occupational therapists identify and coordinate resources, locate services and link with other practitioners. Social media can also promote general occupational therapy education and professional development.

### Maintaining Professionalism

Occupational therapists must use social media platforms professionally, securely, and responsibly. At times, the lines between public and private, professional and personal, can easily blur. There may be instances where an occupational therapist's social media posts in their personal life can cause reputational harm to the profession, the public, and themselves.

Whenever occupational therapists use their professional designation online, they are seen as acting professionally, even when referring to their professional status on personal accounts. Occupational therapists need to be mindful of their posts on personal accounts as the public may not separate the professional from the individual. When using their professional title online, occupational therapists should be professional, honest, respectful, and trustworthy.

Occupational therapists must comply with the [Standards for Professional Boundaries](#). This expectation extends to online activities, as it does in-person interactions. For example, 'friending', 'liking', commenting on, tagging a client, or engaging in non-professional interactions, including private messaging with clients can confuse and cross professional boundaries. **Consent is never a defense for a boundary violation or boundary crossing, even on social media.**

If there are circumstances where the client can only communicate through social media, clear parameters must be outlined about what is appropriate. For example, use social media to communicate the date, time and location of group sessions or general educational material being careful to avoid client identification. Occupational therapists must have a clear rationale for the use of social media that involves any client interaction and document the appropriate informed consent in the clinical record as outlined in the [Standards for Consent](#). Specific clinical guidance to clients should be avoided. The onus is on occupational therapists to ensure they comply with privacy legislation and maintain client privacy and confidentiality.

### Privacy and Confidentiality

Occupational therapists must apply the relevant privacy legislation in the social media environment. To protect client privacy and confidentiality, occupational therapists must not post a client's personal health

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<sup>1</sup> College of Physiotherapy Alberta. Retrieved from [https://www.physiotherapyalberta.ca/files/practice\\_guideline\\_social\\_media.pdf](https://www.physiotherapyalberta.ca/files/practice_guideline_social_media.pdf)

## Use of Social Media

information on any social media site or post testimonials received from a service recipient that reference care provided by a specific occupational therapist.

When using social media, occupational therapists need to think about who can see what is shared and should keep up to date on each social media platform's privacy settings. Remember, even on a personal social media account, your employer, colleagues, or service users may be able to see your posts or personal information. It is best to assume that everyone views anything you post online. Even with maximum privacy settings, something you share online can easily be copied and forwarded without your consent. A post can remain in the public domain even if deleted from the account.

### Pause Before You Post

When using social media, occupational therapists should apply the same professional practices as when communicating in other ways. Occupational therapists must demonstrate respect and avoid using language that others might consider inappropriate or offensive. Occupational therapists must use professional judgement in deciding whether to post or share something. If posting content from another source, occupational therapists need to consider copyright infringements including proper referencing.

When using social media, only post comments and items that you are willing to make public. Before you save, send, or post a comment, **ask yourself if this information should be public or broadcasted on any social media platform? If your response is no, change the message or do not post or respond.** Occupational therapists are in positions of influence and must understand they are accountable for any comments, opinions, and viewpoints communicated through social media forums, including language and tone.

### Advertising and Conflict of Interest

When using social media to advertise occupational therapy services, the information must be factual and verifiable. Occupational therapists must avoid conflicts of interest when using social media as noted in [Professional Misconduct O.95/07](#). Social media should not be used to pressure clients to accept occupational therapy services nor promote or reference a specific brand of device or equipment as outlined in the [General Regulation O.226/96 Advertising Part V](#).

### Social Media Policy

Occupational therapists who are employees should be familiar with their employer's policies and procedures about social media. Some health care facilities monitor all social media communications involving the organization's name, logo, and identity linked through their staff's use. Occupational therapists should consult with their employer to obtain the necessary permission before using organizational information.

Occupational therapists in private practice should develop a social media policy and make this available to clients upon request. The length and details can vary, but consider including statements about conduct, disclaimers, security protocols, privacy compliance with legislation, and contact information. Occupational therapists can seek legal support in developing their social media policies appropriate for their practice.

### Monitoring Online Activity

Occupational therapists need to regularly monitor the social media sites that they engage with, to critically appraise information posted and remove unprofessional or offensive content that may impact their professional online presence.

### Summary

This document provides information for occupational therapists who use social media personally and professionally. In addition to following the College's standards and legislation, this offers practical considerations and recommended practice when using social media. Occupational therapists need to understand and evaluate the ongoing risks and benefits of using social media and are expected to uphold the profession's values in their online activities.

## References

1. College of Physiotherapy Alberta (2017). Retrieved from [https://www.physiotherapyalberta.ca/files/practice\\_guideline\\_social\\_media.pdf](https://www.physiotherapyalberta.ca/files/practice_guideline_social_media.pdf)
2. College of Occupational Therapists of Ontario. Code of Ethics (2020)
3. College of Occupational Therapists of Ontario Standards for Consent (2017)
4. College of Occupational Therapists of Ontario Standards for Record Keeping (2016)
5. College of Occupational Therapists of Ontario Standards for Professional Boundaries (2015)
6. College of Occupational Therapists of Ontario Standards for Prevention and Management of Conflict of Interest (2012)
7. General Regulation, Regulation, Part V: advertising (1996)
8. Professional Misconduct Regulation O. 95/07 (1991)



## COUNCIL BRIEFING NOTE

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**Date:** March 25, 2021  
**To:** Council  
**From:** Patient Relations Committee  
**Subject:** Standards for the Prevention and Management of Conflict of Interest

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Page 1 of 2

### **Recommendation:**

*THAT Council approves the draft revised Standards for the Prevention and Management of Conflict of Interest for public and stakeholder consultation.*

### **Public interest in this issue:**

Issuing standards of practice outlining clear minimum expectations for occupational therapy practice and reflecting up to date practice and legislation is a key component of how the College ensures the public are protected. Trust is an inherent part of the therapeutic relationship. One of the ways occupational therapists maintain their clients' trust is by acting in the best interest of their clients and putting their clients' needs above their own interests. A client's trust and confidence are diminished when a conflict of interest arises, and it is not avoided or appropriately managed by their occupational therapist. The revised draft Standards for the Prevention and Management of Conflict of Interest address this topic so that occupational therapists understand College expectations for the recognition, prevention, avoidance, and management of conflicts of interest to help ensure safe, ethical, and competent practice.

### **Background:**

The Standards for the Prevention and Management of Conflict of Interest were originally issued in 2012 and reformatted in 2016. The College Framework for Document Publications recommends College standards be reviewed every five years for content currency and relevancy. Recognizing the Standards for the Prevention and Management of Conflict of Interest exceeded the recommended timeline, the Patient Relations Committee identified a review of this document as a priority for the 2020-2021 work plan.

As part of the document review, Practice Subcommittee was tasked with reviewing the first draft of the revised standards at its February 4, 2021 meeting. This step was taken to ensure all proposed changes align with those made to other practice documents as well as to obtain their valued input. Practice Subcommittee made a number of recommendations to enhance the document resulting in the Patient Relations Committee reviewing a second draft of the proposed revisions. As part of the review, both committees considered a number of factors:

1. **Legislation** – There have been no recent significant changes to legislation impacting the Standards for the Prevention and Management of Conflict of Interest.
2. **External Scan** – College staff completed an external scan of other regulatory bodies' documents pertaining to conflict of interest. Variations in approaches to presenting standards were identified. Staff noted that the College's Standards for the Prevention and Management of Conflict of

Interest are very detailed, lengthy, and possibly overly prescriptive when compared to those of other regulators on the same topic. Additionally, staff identified that the College's current expectation around referral fees is less onerous than the expectation of other Ontario health profession regulators.

3. **Internal Scan** – An internal scan involved the review of the Practice, Quality Assurance, and Investigations and Resolutions Programs' data. The Practice Program data reviewed (March 2018 to October 2020) indicated that questions associated with conflict of interest commonly include themes of offering discounts for referrals, advertising, treating family members and friends, and vendor arrangements.

The ICRC case data reviewed (2014 to January 2021) identified conflict of interest is not a common theme seen in complaints or reports but when it does arise, it often relates to OTs failing to disclose and appropriately manage their private practice business when also working for public sector employers, or OTs being alleged to have special and inappropriate relationships with vendors for the purposes of performing assessments for equipment funded by the assistive devices program (ADP).

4. **Content & Format Review** – Upon review of the content and format of the Standards for the Prevention and Management of Conflict of Interest, both committees supported significant changes being made to remove outdated references and reformat the standards to align with the current publication formats.
5. **Website Analytics** - July 2016- December 2020 - The Standards for Prevention and Management of Conflict of Interest has had 3,082 unique pageviews, making it the 10<sup>th</sup> most viewed practice document. There are currently 31 practice documents available on the College website, of which 12 are standards for practice.

#### Discussion:

Key changes in the draft revised Standards for the Prevention and Management of Conflict of Interest:

1. Format - the standards have been reformatted and case scenarios removed for consistency with other standards. Educational resources will be developed to accompany this standard that will include case scenarios and case-based learning.
2. Expectations – clarification that referral fees are never acceptable (as opposed to the current expectation that they should be avoided). Referrals should be based on merit and the clients' needs; personal gains should never impact a decision to make or accept a referral.
3. Integration of Standards – several standards and sections were merged to reduce redundancies and avoid having overly prescriptive requirements as to how occupational therapists are to meet the expectations.
4. Language – revisions made to use gender inclusive and where appropriate, more definitive and concrete language e.g., their instead of his/her and 'will' and 'must' instead of 'avoid' and 'refrain'.

#### Attachment(s):

1. Revised Draft Standards for Avoiding Conflict of Interest – Clean Copy
2. Current Standards for the Prevention and Management of Conflict of Interest



# Standards for the Prevention and Management of Conflict of Interest

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Proposed Version

## Introduction

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Occupational therapists have a legal and ethical duty to act in good faith and to deliver health care services in the best interest of their clients. Practising in a conflict of interest jeopardizes this responsibility.

Conflicts of interest exist when the occupational therapist has a relationship or personal interest which may improperly influence their professional judgement or ability to put their client's needs first. Conflicts of interest can be **perceived** (e.g. referring clients internally for all other needed services), **potential** (e.g. a close family member interviewing for a senior position with an organization the occupational therapist refers clients to for services), or **actual** (e.g. receiving payment or incentives for referrals made). The onus is on the occupational therapist to recognize issues of power and control, and to always provide services that are objective and transparent. Conflicts of interest compromise the confidence, trust, and respect the client has in the occupational therapist, the organization they work for, and the profession. As such, **it is expected that occupational therapists proactively recognize, prevent, avoid, and manage conflicts of interest in their practice.**

Occupational therapists should only provide services while in a conflict of interest when alternative options are not available and it is in the client's best interest, such as when the client is at risk of not receiving services.

### Application of these Standards:

- The following standards describe the minimum expectations for occupational therapists.
- The performance indicators listed below each standard describe more specific behaviours that demonstrate the standard has been met.
- There may be some situations where the occupational therapist determines that a particular performance indicator has less relevance due to client factors and environmental factors (e.g., an occupational therapist practising in a remote area may not be able to avoid certain dual relationships). Such situations may call for the occupational therapist to seek further clarification.
- It is not expected that all performance indicators will be evident all the time. It is expected performance indicators could be demonstrated by the occupational therapist if requested.
- It is expected that occupational therapists will always use their clinical judgement to determine how to best meet the client needs in accordance with the standards of the profession.
- It is also expected that occupational therapists will be able to provide reasonable rationale for any variations from the Standard.

**In the event of any conflict or inconsistency between these Standards and other College Standards, the Standard with the most recent issue or revised date prevails.**

College publications contain practice parameters and standards which should be considered by all Ontario occupational therapists in the care of their clients and in the practice of the profession. College publications are developed in consultation with occupational therapists and describe current

### Standards for the Prevention and Management of Conflict of Interest

professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

In accordance with the *Regulated Health Professions Act, 1991* (RHPA), the College is authorized to make regulations in relation to professional practice. Practising occupational therapy while in a conflict of interest and contravening or failing to maintain a standard of practice of the profession, constitute grounds for professional misconduct (paragraphs 1 and 18 of section 1 of Ontario Regulation 95/07). **An occupational therapist should always bear in mind that the consent of a client is not an acceptable defence in a conflict of interest situation.**

### Overview of the Standards for Avoiding Conflict of Interest

1. Recognizing, Preventing, Avoiding, and Managing Conflicts of Interest
2. Giving or Receiving Benefits
3. Stakeholder Relationships
4. Research or Work-related Quality Assurance and/or Improvement

# 1. Recognizing, Preventing, Avoiding, and Managing Conflicts of Interest

## Standard 1

*The occupational therapist will recognize, prevent or avoid any perceived, potential, or actual conflicts of interest. If a conflict of interest is unavoidable, the occupational therapist will manage or resolve it in the best interest of the client.*

### Performance Indicators

An occupational therapist will:

1.1	Ensure understanding of conflicts of interest, their relevance to the profession, awareness of the various situations, scenarios and environments that may lead to them;
1.2	Seek advice from knowledgeable individuals such as managers, peers, the College, or legal representation if questioning whether a perceived, potential, or actual conflict of interest exists;
1.3	Ensure fairness and equity by avoiding preferential or discriminatory treatment toward clients or organizations/institutions (e.g., scheduling preferential visits to an institution that pays a higher rate);
1.4	Maintain a relationship of trust and confidence by not taking advantage of their position, including access to privileged information or knowledge they receive in dealings with clients or organizations;
1.5	Reflect upon, recognize and refrain from strongly held opinions, biases or beliefs pertaining to race, gender, religion, age, sexual orientation, disability, nationality, or other grounds protected by human rights which affect their ability to meet client's needs;
1.6	Take the appropriate steps to resolve the conflict of interest in the best interest of the client including, if appropriate, removing themselves from a situation where a conflict of interest is recognized or perceived;
1.7	If it is not possible to avoid a conflict of interest, the occupational therapist must:
1.7.1	Discuss the situation with the client and, if appropriate, stakeholders before providing services

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1.7.2	Upon communicating the conflict of interest, advise the client of their right to decline service at any time and if available, advise on any practical alternatives
1.7.3	Document the steps taken to address the conflict in the client's record.

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## 2. Giving or Receiving Benefits

### Standard 2

*The occupational therapist will not exploit the therapeutic relationship with a client for any form of direct or indirect benefit, gain or advantage.*

#### Performance Indicators

An occupational therapist will:

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2.1	Refrain from exchanging gifts, hospitality or other benefits to avoid creating expectations for the type of care a client will receive, and prevent the perception that the occupational therapist's integrity may be compromised;
2.2	Only recommend products or services that are clinically indicated, and refrain from suggesting that clients purchase or obtain services from a provider of health care products or services, when a personal gain or financial interest exists for the occupational therapist or their relatives. Where that is not possible, the occupational therapist must:
2.2.1	Disclose the nature of the benefit, gain or advantage to the client in advance,
2.2.2	Discuss other options for products or services and allow the client to make a choice when a conflict of interest exists,
2.2.3	Assure the client that their service will not be adversely affected should they select an alternative supplier or product;
2.2.4	Document the discussion in the client's record

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<b>2.3</b>	Ensure they do not give any benefit to another person or organization in return for a client referral; or receive any benefit for making a client referral;
<b>2.4</b>	Avoid self-referral or soliciting clients unless alternative options are not available, or are not in the client's best interest (e.g. the client is at risk of not receiving the services). Where self-referral is unavoidable and is in the client's best interest, the occupational therapist will:
<b>2.4.1</b>	Always disclose the self-referral to their client and others involved in the referral or services (e.g. the organization supporting or receiving the referral);
<b>2.4.2</b>	Provide the client with the option of seeking alternative services;
<b>2.4.3</b>	Document the full disclosure that was made to the client and others involved.
<b>2.5</b>	Maintain written documentation in the client's record to demonstrate the process that was followed, or the action taken to address the conflict of interest

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### 3. Stakeholder Relationships

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#### Standard 3

*The occupational therapist will reflect upon personal, financial, and business relationships with stakeholders, and will avoid those that would constitute, or be perceived to constitute, a conflict of interest.*

#### Performance Indicators

An occupational therapist will:

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<b>3.1</b>	Recognize and ensure that the primary objective of professional interactions between the occupational therapist and other stakeholders are in the client's best interest and not in the interest of the other parties;
<b>3.2</b>	Recognize that their primary obligation is to the client. Relationships with stakeholders will only be made if they do not affect the integrity, trust, and confidence in the occupational therapist/client relationship;

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**3.3** If acting as a liaison between the vendor and the client, promote the client's choice of vendor and/or equipment;

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**3.4** Disclose any stakeholder relationships to the client and assure them that their choice of an alternative will not adversely impact their occupational therapy services.

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## 4. Research or Work-Related Quality Assurance and/or Improvement

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### Standard 4

*The occupational therapist will ensure that the client's interest and well being is prioritized when involving them in a research or work quality assurance and/or improvement project.*

#### Performance Indicators

##### Research Projects

Where an occupational therapist is engaged in a research project regarding recipients of occupational therapy services, they will:

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**4.1** Seek a review and approval by a Research Ethics Board related to their organization or institution, to ensure that the research activities to be undertaken are ethically defensible, socially responsible, and scientifically valid;

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**4.2** Disclose the nature of any conflict of interest to participants and the Research Ethics Board, when acting in dual roles of a researcher and a therapist, particularly when seeking the participant's consent;

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**4.3** Disclose to the Research Ethics Board and participants any financial incentive from organizations sponsoring the research;

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**4.4** Ensure there is no adverse impact on any client who opts not to participate in the research project;

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**4.5** Request informed and ongoing consent from clients involved in the research project.

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##### Work-Related Quality Assurance and/or Improvement Projects

Where an occupational therapist is engaged in a quality assurance and/or improvement project involving the active participation of clients, they will:

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## Standards for the Prevention and Management of Conflict of Interest

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- |             |   |
|-------------|---|
| <b>4.5</b>  | Ensure that clients are fully informed about the purpose, methods, risks and the intended use of the quality assurance and/or improvement results;  |
| <b>4.6</b>  | Ensure informed consent from clients before asking them to participate in any quality assurance and/or improvement project;   |
| <b>4.7</b>  | Appreciate and maintain informed consent as an ongoing process to be re-evaluated in various stages of the project;   |
| <b>4.8</b>  | Ensure the clients are not, or do not feel pressured, unduly influenced or coerced to participate in the project and that there is no adverse impact to them should they choose not to participate; |
| <b>4.9</b>  | Disclose to the clients any financial or other benefits for participating in the project;   |
| <b>4.10</b> | Disclose to the clients if the occupational therapist is receiving an additional incentive for recruitment other than regular compensation.   |
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## References

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Ontario Regulation 226/96: General – Part V: Advertising

Ontario Regulation 95/07: Professional Misconduct

Code of Ethics (2020)

Standards for the Prevention of Sexual Abuse  
(2018)

Standards for Professional Boundaries (2015)

Ministry of Health's Policy Guidelines for Drafting Conflict of Interest Regulations by Health Regulatory  
Colleges (2005)

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# Standards for Prevention and Management of Conflict of Interest

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Old Version

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## Introduction

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Occupational therapists, like many health practitioners, are in a unique relationship of trust with their clients. In occupational therapy practice, a conflict of interest arises when the occupational therapist has a relationship or interest, which could be seen by a reasonable person as improperly influencing their professional judgement or ability to act in the best interest of the client. An **actual** conflict of interest means an action has already occurred. A **potential** conflict of interest occurs where a neutral and informed person, would reasonably conclude that an occupational therapist may fail to fulfil their professional obligation to act in the best interest of the client. A **perceived** conflict of interest is where a neutral and informed person would reasonably conclude that the occupational therapist has been improperly influenced even if that is not actually the case. Therefore, a perceived or potential conflict of interest is as significant as an actual conflict of interest. A conflict of interest, whether it is actual, potential or perceived, needs to be addressed.

*The Regulated Health Professions Act, 1991 (RHPA)*, as amended, acknowledges occupational therapists as autonomous practitioners. The regulation of the profession requires occupational therapists to practice according to established standards and principles of practice, and to apply these standards consistently in a responsible, intentional manner within the health care environment.

Occupational therapists have a legal and ethical duty to act in good faith and to deliver health care services in the best interest of their clients. A conflict of interest may compromise clients' trust in the occupational therapist. The Standards for Prevention and Management of Conflict of Interest are meant to ensure that occupational therapists in Ontario are aware of the minimum expectations for recognition, prevention and management of conflict of interest.

A conflict of interest is often viewed in terms of monetary benefits. However, it may also be a result of a boundary-crossing or violation, such that the occupational therapist is meeting their own needs in the relationship to the detriment of the client in the immediate context or possibly in the future.

If not addressed, a conflict of interest may compromise the confidence, trust and respect the client has in the occupational therapist or the organization that is represented by the occupational therapist. This makes conflict of interest a significant issue of concern to Registrants and the College. In addition, the College receives many calls from Registrants seeking information or guidance on practice issues that revolve around conflicts of interest. The Ministry of Health and Long-Term Care is also concerned about this issue and has issued guidelines to assist health regulatory Colleges in developing conflict of interest regulations.

Occupational therapists are in a position of authority and thus have a duty to meet the best interest of their clients who rely on them. They have access to personal and sensitive information and often work with people who may be vulnerable in different ways. Because of this, occupational therapists have a professional responsibility to uphold fundamental values of respect and trust. When an occupational

therapist is in a conflict of interest, these key fundamental values and confidence in the health care system may be compromised. Managing a conflict of interest is important because it encompasses the principles that support the values of honesty, fairness, accountability and transparency. Ensuring one's practice is free from conflict of interest also maintains principles of good practice; client centeredness, recognition of the dignity and worth of each person and their diversity and individuality. It is considered professional misconduct for an occupational therapist to practise while in a conflict of interest. The standards for conflict of interest are intended not only to enable occupational therapists to comply with the standards and regulations, but also to maintain and promote trust and respect of the profession.

Occupational therapists are responsible for recognizing, as well as anticipating situations of conflict of interest. On an ongoing basis, occupational therapists will proactively prevent or avoid a conflict of interest and where that is not possible, take measures to effectively manage the conflict.

In the delivery of occupational therapy services, and in order to meet the best interests of the client, an occupational therapist will identify all the other stakeholders involved. Using professional judgement and knowledge, the occupational therapist is responsive to the expectations of each stakeholder separately. During the process of determining the parameters of his or her role, the occupational therapist identifies and manages competing interests of different stakeholders, as well as their own self-interest.

Given their professional knowledge, trust and position of authority, an occupational therapist should keep in mind that it is her/his responsibility to prevent conflict of interest from occurring through an abuse of their power or authority. The onus is on the occupational therapist to recognize issues of power and control; anticipate, be alert to, manage conflict of interest and practise in a manner that preserves the client's trust and confidence. **An occupational therapist should always bear in mind that the consent of a client is not a defence in a conflict of interest situation.**

In circumstances where conflict of interest cannot be avoided or such action may not be in the best interest of the client, occupational therapists are expected to effectively manage the conflict while demonstrating care and professional integrity. The following standards and performance indicators outline the expectations of occupational therapists related to avoiding or managing actual, potential or perceived conflict of interest. The standards will enable Registrants to be more proactive and exercise sound professional judgement in recognizing, preventing or managing conflict of interest situations.

## Application of the Standards of Practice for Prevention and Management of Conflict of Interest

- The following standards describe the minimum expectations for occupational therapists.
- The performance indicators listed below each standard describe more specific behaviours that demonstrate the standard has been met.
- There may be some situations where the occupational therapist determines that a particular performance indicator has less relevance due to client factors and environmental factors (e.g., an occupational therapist practising in a remote area may not be able to avoid certain relationships). Such situations may call for the occupational therapist to seek further clarification.
- It is not expected that all performance indicators will be evident all the time, but could be demonstrated if requested.
- It is expected that occupational therapists will always use their clinical judgement to determine how to best meet the client needs in accordance with the standards of the profession.
- It is also expected that occupational therapists will be able to provide reasonable rationale for any variations from the standards.

Pursuant to the *Regulated Health Professions Act, 1991* (RHPA), the College is authorized to make regulations in relation to professional practice. Ontario Regulation 95/07: Professional Misconduct, establishes that “contravening, by act or omission, a standard of practice of the profession or failing to maintain a standard of the profession,” constitutes grounds for professional misconduct.

College publications contain practice parameters and standards which should be considered by all Ontario occupational therapists in the care of their clients and in the practice of the profession. College publications are developed in consultation with occupational therapists and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

## Overview of the Standards for Prevention and Management of Conflict of Interest

### Part A

The first three standards are the guiding principles proposed for these Standards for Prevention and Management of Conflict of Interest:

- Standard 1. Recognition of Conflict of Interest**
- Standard 2. Prevention of Conflict of Interest**
- Standard 3. Management of Conflict of Interest**

### Part B

The following are more specific Prevention and Management of Conflict of Interest Standards:

- Standard 4. Personal Benefit**
- Standard 5. Dual or Multiple Relationships**
- Standard 6. Self-Referral**
- Standard 7. Stakeholder Relationships**
- Standard 8. Research or Quality Assurance and/or Improvement**
- Standard 9. Council, Committee or Administrative Membership**

Old Version

## Part A

### 1. Recognition of Conflict of Interest

Sometimes, a conflict of interest situation may not be obvious and even an experienced occupational therapist may not easily recognize it. A situation may potentially lead to a conflict of interest, or be seen by others as presenting a conflict of interest although the occupational therapist may not see it that way. Nevertheless, whether the conflict of interest is perceived, potential or actual, the occupational therapist will be expected to foresee and appropriately address such a situation.

#### Standard 1

*The occupational therapist will proactively be alert to and recognize any actual, potential or perceived conflict of interest.*

#### Performance Indicators

An occupational therapist will:

- |              |  |
|--------------|--|
| <b>1.1</b>   | Ensure understanding of conflict of interest, its relevance to the profession and will be aware of the various situations, scenarios and environments that may lead to conflict of interest;                                   |
| <b>1.2</b>   | Reflect upon and recognize,  |
| <b>1.2.1</b> | Activities which affect their ability to be impartial and neutral in the client-therapist relationship,  |
| <b>1.2.2</b> | Whether there is any benefit to the occupational therapist, directly or indirectly, that could affect their professional judgement,  |
| <b>1.2.3</b> | Strongly held opinions, biases or beliefs pertaining to race, gender, religion, age, sexual orientation, disability, nationality or other grounds protected by human rights which affect their ability to meet client's needs, |
| <b>1.2.4</b> | That a conflict may not necessarily be actual but can simply be perceived or potential;  |

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1.3	Consider if others could potentially perceive there to be a conflict of interest which would compromise the occupational therapist's credibility and quality of client care;
1.4	Seek advice from knowledgeable individuals such as managers, discipline leaders, peers or the College, when in doubt whether an actual, potential or perceived conflict of interest exists;
1.5	Be proactive in foreseeing and preventing situations that may present a conflict of interest before an actual, potential or perceived conflict of interest occurs;
1.6	Where they exist, apply policies and procedures of their organization to identify actual, potential or perceived conflicts of interest.

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## 2. Prevention of Conflict of Interest

While not every conflict of interest can be avoided, most can.

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### Standard 2

*The occupational therapist will make deliberate efforts including communication with clients, to avoid or prevent an actual, potential or perceived conflict of interest from occurring.*

#### Performance Indicators

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An occupational therapist will:

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2.1	Avoid participating in activities or arrangements which may potentially compromise professional judgement (e.g., accepting monetary awards, benefits or values for the number of referrals);
2.2	Manage professional boundaries in a way that prevents conflict of interest (e.g., avoid treating family members);
2.3	Focus on his/her primary role as a health service provider by not using his/her position/status as an occupational therapist to receive unrelated benefits, or free (or below market value) goods and services (e.g., obtaining the use of a free or low cost office from someone who could benefit from an OT's recommendations to clients);
2.4	Ensure fairness and equity by avoiding preferential or discriminatory treatment towards particular clients or organizations/institutions (e.g., scheduling preferential visits to an institution that pays a higher rate);

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2.5	Apply organizational policies and procedures where they exist pertaining to conflict of interest, or demonstrate a consistent approach, based on College standards to avoid and manage conflict of interest;
2.6	Maintain a relationship of trust and confidence by not taking advantage of his/her position, including access to privileged information or knowledge they received in dealings with clients or organizations;
2.7	Advise clients and stakeholders of alternative service options, which may include provision of a referral to a third party to give service on the OTs behalf when in a potential, actual or perceived conflict of interest.

### 3. Management of Conflict of Interest

Not all conflicts of interest are the same. Some may be very serious and need to be prevented or avoided at all costs. However, other conflicts of interest may be less serious and could be judiciously managed. There are instances where a conflict of interest cannot be avoided. In those circumstances, the conflict of interest must be managed. For instance, in a small rural community an occupational therapist may provide services to a client who is also a friend he or she met through the church that they both attend.

#### Standard 3

*The occupational therapist will be proactive in effectively managing and mitigating an unavoidable conflict of interest.*

#### Performance Indicators

An occupational therapist will:

3.1	Take the appropriate steps where possible, to resolve or remove themselves from a situation where a conflict of interest is recognized or perceived;
3.2	Take the following steps where a conflict of interest cannot be resolved,
3.2.1	Disclose to the client and stakeholders a potential, perceived or an actual conflict of interest throughout service delivery,
3.2.2	Upon communicating the conflict of interest, advise the client of their right to decline service at any time,
3.2.3	If a conflict of interest exists and cannot be avoided, document the steps taken to address the conflict.

## Part B

Please refer to the first three standards before proceeding with the following specific prevention and management of conflict of interest standards.

### 4. Personal Benefit

Conflicts of interest may be described as involving the receipt of a benefit that conflicts with an occupational therapist's responsibilities to a client, or that may improperly influence the occupational therapist's ability to act in the best interest of the client. Such a benefit may lead to an occupational therapist or a closely related person or corporation gaining materially, financially, professionally or personally. Professional judgement and practices are expected to be rendered in an objective and transparent manner without consideration of personal, financial or material gain. One of the most common issues for occupational therapists is the presentation of gifts. Please refer to the practice examples in the Standards for Professional Boundaries for reflection on this topic.

#### Standard 4

*The occupational therapist will not exploit the therapeutic relationship with a client for any form of personal gain, benefit or advantage, which may interfere with his/her exercise of sound professional judgement.*

#### Performance Indicators

An occupational therapist will:

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|--------------|---|
| <b>4.1</b>   | Refrain from exchanging gifts, hospitality or other benefits to avoid creating expectations for the type of care a client will receive, and prevent the perception that the occupational therapist's integrity may be compromised;  |
| <b>4.2</b>   | When recommending products or services, refrain from suggesting that clients purchase or obtain services from a provider of health care products or services, when a personal gain or financial interest exists for the occupational therapist. Where that is not possible: |
| <b>4.2.1</b> | Disclose to the client where there is a personal benefit or gain to be made,  |
| <b>4.2.2</b> | Discuss other options for products and services and allow the client to make a choice when a conflict of interest exists,   |
| <b>4.2.3</b> | Assure the client their service will not be adversely affected by the client's selection of an alternative supplier or product;   |

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- |            |  |
|------------|--|
| <b>4.3</b> | Ensure his/her first obligation is to the client by refraining from entering into agreements that create conflicting duties (e.g., where a fee or other benefit is given or received based on the number of referrals made); |
| <b>4.4</b> | Maintain written documentation (to demonstrate the process that was followed or the action taken).   |
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## 5. Dual or Multiple Relationships

A dual relationship exists when an occupational therapist serves in the capacity of both occupational therapist and at least one other relationship (multiple relationships if more than two) with the same client. The second (or more) relationship could be personal, social, financial or professional and may be concurrent or subsequent to the therapeutic relationship. It can also exist when an occupational therapist is in a professional role with a person and promises to enter into another relationship in the future with that person or somebody closely related to that person.

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### Standard 5

*The occupational therapist will avoid dual or multiple relationships (e.g., personal, professional or financial relationships) that could compromise their professional judgement or increase the risk of a boundary violation leading to conflict of interest.*

#### Performance Indicators

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An occupational therapist will:

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- |              |  |
|--------------|--|
| <b>5.1</b>   | Identify when dual or multiple roles affect or could be reasonably perceived to affect one's judgement, or ability to be impartial and neutral in the therapeutic relationship (e.g., business partner, friend, relative);         |
| <b>5.2</b>   | Ensure that where relationships are concerned, they never,   |
| <b>5.2.1</b> | Enter into or maintain a sexual relationship with a current client, or someone (e.g., child's parent) with whom the client has a significant personal relationship (please refer to the Standards for Prevention of Sexual Abuse); |
| <b>5.2.2</b> | Exchange with clients unnecessary personal or financial information that may lead to a conflict of interest;   |
-

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**5.3** Avoid entering into a therapeutic relationship with family, colleagues, or friends unless no other option is available to provide the required service. When this happens the occupational therapist will,

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**5.3.1** Give full disclosure to the client and any third party payer of the potential boundary and conflict of interest issues involved (please refer to the Standards for Professional Boundaries).

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## 6. Self-Referral

Self-referral occurs when an occupational therapist working in one professional setting refers clients to him/herself in another professional setting in which the occupational therapist has any interest or gains any benefit. For instance, an occupational therapist working in a hospital refers a client to a clinic in which they have a financial interest, amounting to self-referral.

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### Standard 6

*The occupational therapist will avoid self-referral when there is a potential, perceived or actual financial benefit, unless alternative options are not in the best interest of the client or the client is at risk of not receiving the services.*

#### Performance Indicators

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An occupational therapist will avoid self-referral or soliciting clients for his/her private business from clients he/she sees at his/her employment. Where this is unavoidable the occupational therapist will:

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- 6.1** Always disclose self-referral to his/her client and where applicable to the organization supporting or receiving the referral and other stakeholders;
- 
- 6.2** Provide the client with the option of seeking alternative services;
- 
- 6.3** Document the full disclosure that was made to the client, manager and/or stakeholders.
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## 7. Stakeholder Relationships

Occupational therapists need to anticipate actual, perceived or potential conflict of interest in personal, professional, or business relationships with stakeholders. These stakeholder relationships can, depending on the circumstances, constitute a conflict of interest.

In this standard, stakeholders refer to vendors, companies and manufacturers. Some relationships or business ventures with stakeholders can be a source of conflict of interest. An occupational therapist may have a close relationship or rapport with an equipment vendor borne out of experience using the vendor's equipment. The vendor may provide the occupational therapist with the latest model of the equipment to be trialed at the clinic where the occupational therapist works. Similarly, an occupational therapist may provide assessment and recommend equipment or prescription and also have a business association with the vendor selling the equipment (self-dealing).

### Standard 7

*The occupational therapist will reflect upon personal, financial and business relationships with stakeholders, and will avoid those that would constitute or be perceived to constitute a conflict of interest.*

#### Performance Indicators

An occupational therapist will:

- |     |   |
|-----|---|
| 7.1 | Recognize and ensure that the primary objective of professional interactions between the occupational therapist and companies, manufacturers, or vendors are in the best interest of the client rather than the private interest of either party;   |
| 7.2 | Recognize that his/her primary obligation is towards the client. Relationships with stakeholders will only be made if they do not affect the integrity, trust and confidence in the occupational therapist/client relationship;   |
| 7.3 | Avoid any self-interest in referral to programs, products or services;  |
| 7.4 | Avoid using their role or position to obtain personal loans from equipment vendors;   |
| 7.5 | If acting as a liaison between the vendor and the client, promote the client's choice of vendor and/or equipment, or provide clients with options to choose a vendor and then act as a liaison;   |
| 7.6 | Avoid engaging in self-dealing (i.e., being on both sides of the deal), for instance, providing assessment to a client and recommending a supplier who is the OT's business partner;  |
| 7.7 | Disclose to clients the nature of the relationship, if any, with the stakeholder and provide the client with all available options and choices, and assure the client that any choice of an independent stakeholder will not affect the occupational therapist's professional relationship with the client. |

## 8. Research or Quality Assurance and/or Improvement

Research, in this context, can be defined as the search for knowledge and new understandings or as any systematic investigation using scientific methods.

When research is conducted involving human subjects, it is expected that occupational therapists will ensure they obtain approval through a Research Ethics Board (the Board is responsible for ethical assessment and approval of all research involving human subjects to ensure that participants are not harmed, abused or exploited and to maintain commitment to the scientific methods rather than interest in results for personal gain or financial benefit for researchers or sponsors). When an occupational therapist engages a client in research, they will follow the expected procedures and cautions laid out by the approval process of the Research Ethics Board of their related organization or institution. These procedures will include a full explanation of all aspects of the research before requesting informed and ongoing consent from the client. Also, the procedures will ensure that clients are not subject to undue pressure to participate.

There may be times when an occupational therapist has decided to study or evaluate a certain aspect of their practice that does not qualify as research under the Research Ethics Board. The Interagency Advisory Panel on Research Ethics which brings together the three federal government research agencies has determined that these types of projects may be categorized as Quality Assurance and/or Improvement studies. The Panel defines Quality Assurance and/or Improvement studies as program evaluation activities, and performance reviews or testing used exclusively for assessment, management or improvement purposes. These are unlike research studies which are meant to answer a research question and invite critical appraisal of that conclusion by peers through presentation and debate in public forums.<sup>1</sup>

While some of the performance indicators outlined below are usually covered by the Research Ethics Board, they are restated here to guide Registrants undertaking quality improvement or assurance projects that are not covered by such a Board. Whether it is a research or quality improvement project, clients need to be assured of confidentiality of the information they give and that their anonymity will be maintained.

An occupational therapist will avoid conflict of interest by ensuring that client's best interests are the priority. That means clients should be assured that their interests are not subordinate to the occupational therapist's interests.

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<sup>1</sup> Government of Canada, Panel on Research and Ethics, Tri-Council Policy Statement (TCP-2). Retrieved from: [http://www.pre.ethics.gc.ca/pdf/eng/tcps2/TCPS\\_2\\_FINAL\\_Web.pdf](http://www.pre.ethics.gc.ca/pdf/eng/tcps2/TCPS_2_FINAL_Web.pdf)

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## Standard 8

*The occupational therapist will ensure that the client's interest and well being is prioritized when involving them in a research or quality assurance and/or improvement project.*

### Performance Indicators

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#### Research Projects

Where an occupational therapist is engaged in a research project, they will:

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- |     |  |
|-----|--|
| 8.1 | Seek a review and approval by a Research Ethics Board related to their organization or institution, to ensure that the research activities to be undertaken are ethically defensible, socially responsible and scientifically valid; |
| 8.2 | Disclose the nature of any conflict of interest to participants and the Research Ethics Board, when acting in dual roles of a researcher and a therapist, particularly when seeking the participant's consent;                       |
| 8.3 | Disclose to the Research Ethics Board and participants any financial incentive from organizations sponsoring the research;   |
| 8.4 | Request informed and ongoing consent from clients involved in the research project.  |
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#### Quality Assurance and/or Improvement Projects

Where an occupational therapist is engaged in a quality assurance and/or improvement project involving the active participation of clients, they will:

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- |      |  |
|------|--|
| 8.5  | Ensure that clients are fully informed about the purpose, methods, risks and the intended use of the quality assurance and/or improvement results; |
| 8.6  | Ensure informed consent from clients before asking them to participate in any quality assurance and/or improvement project;                        |
| 8.7  | Appreciate and maintain informed consent as an ongoing process to be re-evaluated in various stages of the project;                                |
| 8.8  | Ensure the clients are not, or do not feel pressured, unduly influenced or coerced to participate in the project;                                  |
| 8.9  | Disclose to the clients if they (clients) will receive any financial or other benefits for participating in the project;                           |
| 8.10 | Disclose to the clients if the occupational therapist is receiving an additional incentive for recruitment other than regular compensation.        |
-

## 9. Council, Committee or Administrative Membership

Some occupational therapists are members of committees, boards, councils or other similar bodies where they have access to privileged information and/or they influence decision-making. An occupational therapist compromises their role in such a committee if they stand to gain financially or by obtaining a privilege, an appointment or employment from a certain decision.

### Standard 9

*The occupational therapist will protect the integrity of any committee, board, council or other similar bodies where they are members. The occupational therapist will avoid and/or address (e.g. by full disclosure) any circumstance that may lead to an actual, potential or perceived conflict of interest.*

#### Performance Indicators

An occupational therapist will:

- |            |   |
|------------|---|
| <b>9.1</b> | Refrain from participating in activities or processes of a council, committee, or administrative board of which he or she is a member that could lead to an actual, potential, or perceived conflict of interest (e.g., sitting on a body that is investigating or adjudicating on the conduct of a colleague or competitor); |
| <b>9.2</b> | Abstain from voting or participating in a meeting where they stand to gain any financial privilege, appointment or employment;  |
| <b>9.3</b> | Disclose any situation that he or she knows would be perceived as constituting an actual, potential, or perceived conflict of interest (e.g., sitting on a hearing committee where the occupational therapist knows a candidate);   |
| <b>9.4</b> | Refer and adhere to conflict of interest policies of the organization.  |

## Appendix 1

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### Examples of Practice Scenarios

#### Personal Benefit

A company that supplies wheelchairs has offered funding for an occupational therapy course. Would this be considered a conflict of interest?

When determining whether to accept this kind of gift, an occupational therapist should consider:

- The motives of the giver;
- Any constraints or conditions attached to the gift;
- The potential or perception of a conflict of interest; and/or
- Employer policy regarding gifts.

Performance Indicator 4.1 states an occupational therapist should refrain from exchanging gifts, hospitality and other benefits to avoid creating expectations for the type of care a client will receive, and prevent the perception that the occupational therapist's integrity may be compromised. Gifts from commercial sources have the potential to create an obligation and a loss of objectivity. For instance, a gift such as this could influence the occupational therapist's discussion with clients about their choice of vendor. Overall, such an offer needs to be declined (unless, perhaps, it was part of a project that was open to all occupational therapists and the selection was made by a neutral party).

An occupational therapist should identify these issues and discuss them with his/her supervisor to raise awareness of possible conflicts and assist in their decision making. The company may offer the funding with a motive of influencing the occupational therapist to recommend the company to his or her clients when they are purchasing equipment. It may also add conditions to the offer that would compromise the occupational therapist's professional judgement. For instance, the offer may be on condition that the occupational therapist will be required to work in a certain area of practice, location or industry upon completion of the course.

#### Self-Referral

Alice is an occupational therapist operating her own private practice but has been employed at a rehabilitation centre. She is wondering if she could give out her private business cards to clients she sees at the rehabilitation centre.

An occupational therapist will avoid self-referral or soliciting clients for his/her private business, from clients seen at his/her place of employment. Where this is unavoidable, performance Indicators 6.1-6.3 states that the occupational therapist will disclose, give clients options and retain records to show that a disclosure was made. It is not appropriate for the occupational therapist to refer clients from their

employment to their private practice. As the performance indicator states, the occupational therapist's personal interests could interfere with his/her professional judgement or the client's best interests. For instance, the OT may advocate for an earlier than usual discharge to enable private services to begin, or it may be perceived that this is the case. In addition, Ontario Regulation 226/96: General – Part V: Advertising, does not permit direct solicitation to individual clients. However, an occupational therapist who has a practice separate from hospital employment would be able to distribute their advertising materials to referral sources such as doctor's offices or through other professionals.

### **Stakeholder Relationship**

An occupational therapist has worked in a rehabilitation centre for a long time and is considered an expert in physical disability rehabilitation. She is well known and respected by the local community and is often invited to speak about physical disability at conferences. In one instance, she has been invited to speak at a conference and present a paper on effectiveness of assistive devices to persons with physical disabilities.

After accepting the invitation, she receives conference materials and learns that each session has a corporate sponsor. Her session is being sponsored by a company that develops wheelchairs among other products. Speakers are also provided with the company logo and are requested to use it in all their presentation slides and handouts. They are also requested to acknowledge and thank the sponsors for the generous sponsorship. Should the occupational therapist agree to present?

It is important to understand that clients seeking health care such as occupational therapy services are typically in a vulnerable position. They look to the occupational therapist for assistance and hold that individual in a position of trust. The public trust that the occupational therapist as a health care professional will act in the client's best interest. As such, an occupational therapist is expected to practise in a highly ethical, transparent and client-centred manner. Performance indicator 7.1 states that an occupational therapist will recognize and ensure that the primary objective of interactions between the occupational therapist and companies, manufacturers or vendors are in the best interest of the client rather than the private interest of either party.

Further, Performance Indicator 7.2 states that an occupational therapist's primary obligation is towards the client. Relationships with stakeholders will only be made if they do not affect the integrity, trust and confidence in the occupational therapist/client relationship. In this scenario, the dilemma is whether the occupational therapist is using her professional status to implicitly endorse the company. The occupational therapist might also be pressured to slant the presentation in a particular way to avoid upsetting the sponsor. Using the company logo on handouts and presentation sends the message that the company might have influenced the content of the presentation. This kind of relationship should be avoided unless there are enough safeguards to highlight the objectivity of the occupational therapist (e.g., a disclaimer in the written materials and handouts indicating that the occupational therapist had no connection with the sponsor).

## Dual or Multiple Relationships

Paul Smith, an OT, works in a mental health clinic where he has gained a lot of expertise in psychotherapy. His best friend Kate talks a lot about issues with her husband, Andrew, and their intimacy problems. Over time, Kate convinces Andrew to seek therapy. She asks Paul, the OT for a referral, but Paul mentions that finding a therapist can be difficult so he would be willing to see Andrew.

When Paul starts to see his friend's husband in therapy, Kate mentions at lunch with Paul that her husband has a chronic drug problem that she hopes he has mentioned in therapy. In addition, Andrew informs Paul during therapy that his wife is physically abusing their child. Andrew also wants to bring up issues about his sexual relationship with Kate in therapy, but he feels he can't share certain things with Paul because he fears the influence of Paul's friendship with Kate.

In this scenario, there are a number of role conflicts that complicate the situation. The occupational therapist must hold confidential information that he hears from Andrew but he cannot share with Kate. While Paul may have very good processes for protecting confidential information, it can still be easy to slip up and forget who has shared what when he hears stories about the same events and relationship from two different people.

Performance Indicator 5.1 states that the occupational therapist will identify when dual or multiple roles affect or could be reasonably perceived to affect one's judgement, or ability to be impartial and neutral in the therapeutic relationship (e.g., business partner, friend, relative).

Further, Performance Indicator 5.4 states that the occupational therapist will avoid entering into a therapeutic relationship with family, colleagues, or friends unless no other option is available to provide the required service. When that happens, the occupational therapist will give full disclosure to the client and any third party payer of the potential boundary and conflict of interest issues involved. By agreeing to start a therapeutic relationship with a friend's spouse, Paul has not only risked a boundary crossing, but may also compromise his judgement leading to a conflict of interest. Paul should have explored other options, such as another occupational therapist or health service professional to provide the required service to Andrew.

## References

---

### College References:

Ontario Regulation 226/96: General – Part V: Advertising  
Ontario Regulation 95/07: Professional Misconduct  
Standards for Consent (2008)  
Standards for Prevention of Sexual Abuse (2007)  
Standards for Professional Boundaries (2009)  
Standards for Record Keeping (2008)  
Code of Ethics (2011)

### Legislative References:

*The Occupational Therapy Act, 1991*  
*The Regulated Health Professions Act, 1991*

### Ministry of Health and Long-Term Care References:

*Policy Guidelines for Drafting Conflict of Interest Regulations by Health Regulatory Colleges (2005)*

### Other References:

Canadian Medical Association. (2007). *Guidelines for Physicians in Interactions with Industry (CMA Publication Number PD08-01)*. Ottawa, ON. CMA Online.

College of Physiotherapists of Ontario (n.d.). *Standards for Professional Practice – Conflict of Interest*. Retrieved from <http://www.collegept.org/Physiotherapists/College%20Documents/Registrants%20Guide/Businesspractices>

McMaster Research Ethics Board. (2007). Informed Consent. In *MREB Research Ethics Tutorial*. Retrieved from <http://www.mcmaster.ca/ors/ethics/tutorial/informedconsent.htm>

Government of Canada, Panel on Research and Ethics, Tri-Council Policy Statement (TCP-2). Retrieved from: [http://www.pre.ethics.gc.ca/pdf/eng/tcps2/TCPS\\_2\\_FINAL\\_Web.pdf](http://www.pre.ethics.gc.ca/pdf/eng/tcps2/TCPS_2_FINAL_Web.pdf)

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## COUNCIL ELECTIONS AGENDA

DATE: Thursday, March 25, 2021 TIME: 3:00 – 4:00 p.m.

Page 1 of 1

	Agenda Item	Objective	Attachment
1.0	<b>Call to Order – Elinor Larney, Registrar, presiding</b>		
2.0	<b>Approval of Agenda</b>	Decision	✓
3.0	<b>Elections</b>		
	3.1 Election of Officers	Voting	
	3.2 Motion to Delete Records  <i>THAT the electronic ballots for the 2021 Election of Officers be deleted.</i>	Decision	
4.0	<b>New Business – Newly elected Chair presiding</b>		
	4.1 Statutory Committee Interest Form 4.2 Annual Signing: 1. Confidentiality Agreement 2. Code of Conduct 3. Conflict of Interest	Complete and submit	2 Links to follow
5.0	<b>Next Council Meetings</b>		
	5.1 Set Council meeting dates to June 2022		
6.0	<b>Adjournment</b>		



## FYI Section

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1. Memo from the Ministry of Health re: Partnership in supporting the Vaccination Program
2. Letter from Ontario Society of Occupational Therapists (OSOT) re: 2021 Registration Fees
3. Response letter from the College to OSOT re: 2021 Registration Fees
4. Discipline hearing outcome (2 documents)
5. Letter from the Saskatchewan Society of Occupational Therapists to their membership re: Divestment
6. Résumé – Melissa Aldoroty
7. Résumé – Candice Silver

**Ministry of Health**

Office of the Associate Deputy Minister,  
Pandemic Response and Recovery

56 Wellesley Street West, 10<sup>th</sup> Floor  
Toronto ON M5S 2S3  
Tel.: 416 212-4433  
www.ontario.ca/health

**Ministère de la Santé**

Bureau du sous-ministre associé,  
intervention contre la pandémie et relance

56, rue Wellesley Ouest, 10<sup>e</sup> étage  
Toronto ON M5S 2S3  
Tél. : 416 212-4433  
www.ontario.ca/sante

**Date:** March 15, 2021

**Memorandum to:** Ontario Health Regulatory Colleges

**From:** Alison Blair  
Associate Deputy Minister, Pandemic Response and Recovery

**Subject:** Partnership in Supporting the Vaccination Program

---

As you know, health system partners across the province have been working diligently to plan and implement [Ontario's COVID-19 vaccination program](#). As Public Health Units continue to vaccinate health care workers, Ontario's health regulatory colleges have a key role to play in supporting this work.

As regulators, you are uniquely positioned to support Public Health Units in the identification of eligible health care workers within health regions and in communicating critical information from public health about regional vaccine plans and vaccination opportunities with your registrants. You are also key partners in dispelling myths and misconceptions among regulated health professionals and encouraging vaccination uptake.

The Ministry of Health is specifically seeking your assistance in identifying the total number, and individual names and publicly available contact information for your registrants in each public health region for the purpose of sharing it with Public Health Units to support local vaccine implementation. The Ministry of Health will continue to work with Public Health Units to refine their information needs and communicate the collaboration they can expect from you.

The Ministry of Health continues to rely on your leadership and partnership in encouraging the ongoing professionalism and ethical conduct among regulated health professionals to

follow the [Ministry of Health's prioritization guidance](#) that has been outlined for health care workers.

As we move forward, there will be further outreach on how your role can be optimized. Thank you for your continued efforts and commitment in supporting the response to the COVID-19 pandemic.

Sincerely,

*(original signed by)*

Alison Blair

Associate Deputy Minister, Pandemic Response and Recovery

c. Kevin Taylor, President, Health Professions Regulators of Ontario

Dr. Paul Roumeliotis, Medical Officer of Health, Eastern Ontario Health Unit and Chair, Council of Ontario Medical Officers of Health

Dr. Vera Etches, Medical Officer of Health, Ottawa Public Health and Chair, Vaccine Working Group of the Council of Ontario Medical Officers of Health

Dr. Dirk Huyer, Chief Coroner, Ministry of the Solicitor General

Allison Henry, Director, Health Workforce Regulatory Oversight Branch, Ministry of Health

February 16, 2021

Elinor Larney  
Registrar  
College of Occupational Therapists of Ontario  
10 Bay Street  
Toronto, ON

Delivered by email

Dear Elinor,

As the annual registration timelines for the College of Occupational Therapists of Ontario (COTO) approach, I am writing to share concerns and needs expressed by members of the Ontario Society of Occupational Therapists relating to financial hardship experienced over the past year's COVID-19 pandemic and the annual COTO registration fee due May 31, 2021. On behalf of our members, the Society requests that the College apply leniency and flexibility in payment options to recognize the unique financial situation some College registrants will experience at renewal time.

The COVID-19 pandemic has created significant challenges for all Ontario occupational therapists. We recognize with appreciation the significant adaptation OTs have made to achieve safe service delivery practices, to curb the spread of the virus, and to continue to serve the needs of their clients with commitment. During Wave 1 of the pandemic, our survey data reflected that 60% of OSOT members reported some financial impact as a result of emergency measures put in place. 26% reported a significant loss in income. While health professional services during Wave 2 were not restricted and many of our members were able to retain a normal income stream, this was not the case for everyone. Members, particularly those in the private sector, have identified continuing fiscal stress as a result of:

- **OT Practice Related Factors**
  - Reduced referral volumes in the private sector
  - Referred clients are reticent about having clinicians in their homes or attending clinic appointments and virtual practice options may not meet the client needs resulting in reduced treatment volumes
  - Unanticipated costs of virtual platforms, PPE
  - OTs managing OT businesses experienced additional fiscal stress resulting from:
    - The cost of doing business (clinic-based) is increased as a result of requirements for PPE, cleaning, reduction in volume of patients that can be seen as a result of cleaning times, no waiting room cross overs, etc.
    - Costs of setting up home offices for administrative staff
    - Ineligibility for federal/provincial relief programs (rent, wage subsidy) as their business was not technically restricted as a result of government directives
  - Restrictions experienced by OTs working in long-term care homes resulting from prohibition of working in more than one LTCH (this has extended through Wave 2 as a

result of outbreaks in LTC Homes not because OT services have been restricted)

- **Family Related Factors**

- Loss of employment/income of spouse/partner
- Increased childcare costs as a result of school closures
- Limitations on work hours as a result of having to care for or support distance education for their children

There is no question that these have been unprecedented times. OTs, businesses, associations, etc. have had to engage contingency plans to address the unique demands of the past year and current situation. **At this time, we urge the College to do all it can to support Ontario occupational therapists to maintain their regulatory status without undue financial hardship. If not a fee reduction, the Society asserts that application of a flexible payment option that extends *beyond* the proposed flexibility to pay in instalments before May 31<sup>st</sup> is critical to implement.**

As we understand that Article 18.02 of the College by-laws gives the Registrar the authority to “waive all or part of a fee, penalty or amount in exceptional circumstances” we would assert that deferring payment should be a possibility in this exceptional circumstance.

The College has an established pro-rated payment schedule for new registrants based on a quarterly allocation of \$164.39. We suggest that a quarterly payment option could be based on this allocation, allowing individuals to select to pay more than one quarter at a time should they so choose. It would be assumed that COTO would wish to assure that all payments are made without undue need for follow-up. Confirmation with registrants that select this unique pandemic payment option that their registration would be revoked at any point if the quarterly payment is not received would be appropriate. We would assume that registrants wishing to take advantage of this option would comply with any College requirements such as submission of post-dated cheques, pre-authorized credit card payment, etc.

We recognize that deferred payment options typically need to be managed separately from online renewal processes. We would suggest, however, that based on past experience, the College can anticipate that only those in real need would avail themselves of this option and that the limited costs would be offset with the goodwill appreciation of registrants who continue to experience pandemic related financial hardship, may be dealing with income tax payments between April and June, and who wish to retain their capacity to practice as an occupational therapist in Ontario.

We look forward to hearing of your deliberations and decisions.

Sincerely,



Christie Brenchley, OT Reg. (Ont.)  
Executive Director

110 Eglinton Ave. E., Suite 810  
Toronto, ON M2N 6Y8  
[www.osot.on.ca/osot@osot.on.ca](http://www.osot.on.ca/osot@osot.on.ca)





Sent by email: [cbrenchley@osot.on.ca](mailto:cbrenchley@osot.on.ca)

March 11, 2021

Ms. Christie Brenchley, Executive Director  
Ontario Society of Occupational Therapists  
110 Sheppard Ave E  
Suite 810, North York, ON M2N 6Y8

Dear Christie,

Thank you for taking the time to share the concerns you are hearing about from your members regarding the College's annual renewal process. Occupational therapists play a valuable role in the health care system and are needed now more than ever to provide safe and effective services to the people in Ontario.

I can appreciate the ongoing concerns of occupational therapists as this pandemic has been a dominant force for an entire year, and many occupational therapists have been affected to varying degrees.

As you know, this year, we have moved back to our normal fiscal year renewal schedule. We have explored the installment options you suggested, which unfortunately we are not able to offer. However, we have adjusted the process to include more flexibility for occupational therapists. We will send our renewal notice out earlier this year – target is March 15 vs April 1 - to allow occupational therapists the opportunity to split their payments into three, for March, April and May if needed. Payments can be split into two, if the process is commenced in April and will return to one payment for those who decide to wait until May.

Anyone who is experiencing financial hardship may contact the College and we will work with them to help manage their situation and maintain their regulatory status where possible.

We will not implement any fee increase for this year and are hopeful that the measures outlined above will provide flexibility while allowing the College to continue to operate effectively and efficiently in our public protection role.

Sincerely,

Elinor Larney MHSoc, OT Reg. (Ont.)  
Registrar

**COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO  
DISCIPLINE COMMITTEE**

**PANEL:**

**Donna Barker, Chairperson  
Hunaida Abboud, Member  
Allan Freedman, Public Member  
Zuher Ismail, Member**

**BETWEEN:**

**COLLEGE OF OCCUPATIONAL  
THERAPISTS OF ONARIO**

**REBECCA DURCAN and  
MAYA PEARLSTON  
for the  
College of Occupational  
Therapists of Ontario**

**- and -**

**STEPHANIE ZUBRISKI**

**VALERIE WISE and  
ROZMIN MEDIRATTA  
for  
Stephanie Zubriski**

**BRIAN GOVER and  
LUISA RITACCA  
Independent Legal Counsel (“ILC”)**

**Heard July 20, 21, 23, 24, 27, 28, 31,  
August 4, and September 24, 2020.**

**AMENDED DECISION AND REASONS<sup>1</sup>**

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<sup>1</sup> As amended to correct typographical errors and re-released pursuant to s. 21.1 of the *Statutory Powers Procedure Act* on December 7, 2020 following receipt of submissions from the parties’ counsel on December 1, 2020.

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## I. Introduction

1. A hearing in the matter of the College of Occupational Therapists of Ontario (the “**College**”) and Stephanie Zubriski (the “**Member**”) took place before a panel of the Discipline Committee (the “**Panel**”)² on July 20, 21, 23-24, 27-28, 31, August 4, and September 24, 2020. The College was represented by Rebecca Durcan and Maya Pearlston. The Member was present throughout the hearing and was represented by Valerie Wise and Rozmin Mediratta. Brian Gover and Luisa Ritacca were the Panel’s independent legal counsel (“**ILC**”).

2. Due to COVID-19 pandemic restrictions, the hearing took place virtually, that is, by videoconference. In a ruling dated May 25, 2020, the Panel directed that the entire hearing be undertaken by videoconferencing, subject to the Panel’s ability to revisit this decision if at any point during the hearing either the Member or the College demonstrated that the ability to make full answer and defence, or other aspects of fairness, were compromised. Neither party made such a request during the hearing.

3. In order to facilitate the virtual hearing, the Discipline Committee issued a Direction under the *Hearings in Tribunals Proceedings (Temporary Measures) Act*, 2020 on June 15, 2020 which was superseded by an Amended Direction issued on June 25, 2020. Among other things, the Amended Direction provided for selection of a videoconferencing platform, formulation of specific procedures to be followed and public access to the process. Importantly, the Amended Direction also appointed a Hearings Officer to assist the Panel in conducting this virtual hearing.<sup>3</sup> To further facilitate the process, the Discipline Committee has also issued a document entitled Guidance for Virtual Hearings, which was distributed to the parties’ counsel on July 16, 2020.

4. At the outset of the hearing, counsel for the College brought a motion pursuant to

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<sup>2</sup> Ordinarily, in compliance with subsection 38(2) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991* (the “**Code**”), the hearing would have been presided over by a panel of three or five members of the Discipline Committee, two of whom are “public members”; that is, appointed to the College’s Council by the Lieutenant Governor in Council. However, on the first day of the hearing, one of the Discipline Committee members assigned to the Panel (Lieutenant Governor in Council appointee) was admitted to the hospital and was to undergo a surgical procedure on an emergency basis. He was therefore unable to participate in this hearing. An email exchange between ILC and the parties’ counsel was forwarded to the Panel. From it, it was understood that both parties – that is, both the Member whose conduct is at issue in this hearing and the College – consented to proceeding with a panel that included a single Lieutenant Governor in Council appointee. The parties’ consent was given pursuant to subsection 4.2.1(2) of the *Statutory Powers Procedure Act*, which provides that,

**4.2.1 (2)** Where there is a statutory requirement in another Act that a proceeding be heard by a panel of a specified number of persons, the chair of the tribunal may assign to the panel one person or any lesser number of persons than the number specified in the other Act if all parties to the proceeding consent.

Both counsel also consented to proceeding with an even number of panel members.

<sup>3</sup> Ms. Nithusa Nithi served as the Hearings Officer, assisting the Panel throughout the hearing.

subsection 45(3) and section 47 of the Code for an order banning the publication, broadcasting or public disclosure of the name of the client, other clients, and/or any information that would publicly disclose the identity of the complainant (alleged by the College to be a client), including the name of his family members, or any clients, referred to during the hearing or in documents filed at the hearing. After hearing the submissions of both parties' counsel with respect to the motion, the Panel granted the motion and made the order sought by counsel for the College.<sup>4</sup>

## **II. The Allegations**

5. As stated in the Notice of Hearing dated October 9, 2019<sup>5</sup>, the allegations against the Member were as follows:

### ***The Member***

1. At the material times, [the "Member"] was a duly registered member of the College of Occupational Therapists of Ontario (the "College").
2. At the material times, [the Member] practised occupational therapy at an organization in Hamilton, Ontario that provided reintegration services to men who have been incarcerated.

### ***Sexual Abuse of a Client***

3. It is alleged that [the Member] provided occupational therapy services to the Client from in or about August 2016 to in or about February 2017.
4. It is alleged that on one or more occasions from in or about October 2016 to in or about June 2018, [the Member] did one or more of the following:
  - a. Engaged in sexual intercourse and/or other physical sexual relations with the Client: and/or
  - b. Sent emails of a sexual nature to the Client.
5. The Client and [the Member] lived together from in or about February 2017 to in or about June 2018.

### ***Professional Misconduct Alleged***

6. It is alleged that the above conduct constitutes professional misconduct pursuant to one or more of the following:

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<sup>4</sup> The Panel's reasons for granting the motion were as follows:

- Personal health information or other matters may be publicly disclosed at the hearing, which are of such a nature that the harm created by public disclosure would outweigh the desirability of adhering to the principle that hearings be open to the public.
- The client's testimony is in relation to allegations of the Member's misconduct of a sexual nature involving the client.

<sup>5</sup> Exhibit 1.

- a. Clause 51 (1)(b.1) of the *Health Professions Procedural Code*, being Schedule 2 to the *Regulated Health Professions Act, 1991* (the “Code”), (sexual abuse of a patient, more particularly sexual intercourse or other forms of physical sexual relations between the Member and the client; and behaviour or remarks of a sexual nature by the Member towards the client); and/or
- b. Clause 51(1)(c) of the Code and as defined in one or more of the following paragraphs of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*:
  - i. Paragraph 1 (contravening, by act or omission, a standard of practice of the profession or failing to maintain the standard or practice of the profession; and/or
  - ii. Paragraph 48 (engaging in conduct or performing an act, relevant to the practise of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional); and/or
  - iii. Paragraph 49: (engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist).

6. The Member denied the allegations of professional misconduct as set out in paragraph 6 of the Notice of Hearing.

### **III. The Evidence**

7. The Panel heard testimony from 6 witnesses including the Member<sup>6</sup> and admitted 67 exhibits into evidence. Included among the exhibits were a Joint Brief of Documents<sup>7</sup> containing various documents at 19 tabs and an Agreed Statement of Facts.<sup>8</sup>

8. The relevant testimony is outlined below.

#### **The Member**

9. The Member has been a member of the College since March 18, 2016. At the times in question, the Member practiced occupational therapy (“OT”<sup>9</sup>) at The Bridge, an organization in Hamilton, Ontario that provided reintegration services to men who have been incarcerated.

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<sup>6</sup> Four of the 6 witnesses (the Complainant, Mary Bik, James Bowick and Karen Mason) were called by the College. In a written ruling dated August 5, 2020, the substance of which was announced orally on July 24, 2020, the Panel ruled inadmissible the proposed expert opinion evidence of what would have been a further College witness, Michael Ivany, OT Reg. (Ont.). It was Mr. Ivany’s opinion that the Member was in an OT-client relationship with the Complainant, and that this relationship continued from August 12, 2016 through January 2017 and perhaps subsequently on an outpatient (non-resident) basis. The Panel concluded that Mr. Ivany’s evidence was unnecessary because without the assistance of an expert witness, the Panel was capable of determining whether an OT-client relationship existed, and if there was one, its duration. The witnesses called on the Member’s behalf were the Member herself and Dr. Lori Haskell.

<sup>7</sup> Exhibit 2.

<sup>8</sup> Exhibit 3; attached as Appendix A and redacted to comply with the order of the Panel referred to in para. 4.

<sup>9</sup> “OT” is used here to denote either “Occupational Therapist” or “occupational therapy”, depending on the context.

### **The Bridge and the Member's early employment there**

10. Karen Mason (an adjudicator and mediator who had been both Vice-Chair and Chair of the Board of The Bridge and at the time of testimony was its Treasurer and a member of the Human Rights Tribunal of Ontario) described The Bridge as a small charity that helps men recently released from provincial jails to reintegrate back into society. Ms. Mason stated that The Bridge provides transitional housing and services to residents and clients.

11. James Bowick was the Executive Director of The Bridge from 2009 to 2018. When he started, he was the only employee and provided the majority of the services, including the reintegration services. At some point, an OT volunteered at The Bridge and a grant was obtained to provide such services. The OT then took over the reintegration process. This allowed Mr. Bowick to move on to more administrative matters.

12. Mr. Bowick admitted that the work environment at The Bridge was informal. He described his leadership style as "casual and disorganized." When a resident arrived at The Bridge, Mr. Bowick would sit down with him. They would go over the rental agreement, the expectations of The Bridge, and the Intake Questionnaire. Sometimes other employees, including the Member, would assist with these duties.

13. Mr. Bowick explained that The Bridge had non-resident clients, and the approach with them was much more informal and relaxed. When asked to expand on the expectations, Mr. Bowick referred to certain rules that residents were expected to follow. These included paying rent and refraining from inviting visitors to the residence, consuming alcohol or drugs, and engaging in violence there. Residents were also expected to engage in programs (especially dinners) and Occupational Therapy (OT) services.

14. Mr. Bowick testified that The Bridge would follow up with residents who did not attend the Tuesday Night Dinner or OT services. Although he would not want to evict a resident for failing to comply, he would want to know why the resident was not attending.

15. Mr. Bowick confirmed that residents were not discharged from their obligation to attend OT services while they were residents. To his way of thinking, "once a client always a client." The Bridge was always there for the men. He acknowledged that the mandatory expectations no longer applied when the men moved out, but they were still considered to be clients.

16. It was Mr. Bowick's evidence that The Bridge's leadership wanted an Occupational Therapist (OT) to be involved in the reintegration. This explained the dual title. The program had been built by an OT, and The Bridge's Board and senior staff were impressed with the introduction of OT principles and models of daily living.

17. Mr. Bowick testified that the Member had applied earlier for the OT/Reintegration Facilitator job and was not successful. However, when the OT who had been hired quit after three months, Mr. Bowick and the Board decided to review the other applicants. He recalled

calling the Member and inquiring if she would be interested in applying again.

18. Mr. Bowick identified the job description that was utilized in the initial recruiting of an OT and during the recruiting effort that resulted in the Member being hired in April 2016.<sup>10</sup> This job description included the following:

As part of their rental agreement, clients who occupy transitional housing at The Bridge are required to engage in OT services on a weekly basis.<sup>11</sup>

19. As Executive Director, Mr. Bowick supervised all employees, including the Member.

20. During cross-examination, Mr. Bowick admitted that the mandatory sessions with the OT were not always complied with. Also, The Bridge House Rules<sup>12</sup> do not mention OT. Instead, they require that residents “follow a reintegration plan as developed with the Bridge Reintegration Case Worker and/or probation and parole”.<sup>13</sup> Mr. Bowick did agree that case management and reintegration work were a team effort and that description was supported by the Bridge website at the material time.<sup>14</sup>

21. The Member’s title was “Reintegration Facilitator, Occupational Therapist”.<sup>15</sup> Mr. Bowick agreed this was a “dual title”. Mr. Bowick was asked if all of the Member’s tasks were OT-based. He replied as follows:

Yes. Largely because she kept categorizing all that she did as OT. Gardening was OT. She attended an art program and called it OT. Volunteers could have done this. She categorized it as OT. I accepted it. I could be wrong. Maybe I misunderstood her. When I questioned something, I was told “This is how OT is done.” If she had said Gardening is not OT, then I would have said not the best use of your time.

22. At the outset of her testimony, the Member introduced her March 2020 curriculum vitae (“CV”).<sup>16</sup> In this version of her CV, The Member described her role at The Bridge as a “Reintegration Manager”. However, during her cross-examination, it was noted that her November 2018 CV describes her role at The Bridge as an “Occupational Therapist.” the Member was asked whether she changed the emphasis on her job in order to avoid accountability, which she denied.

23. The Member confirmed that she was aware of the pay and the 16 hours per week expectation when she started at The Bridge and was content with that arrangement. She testified that after January 2017, her hours increased somewhat due to grants obtained for a research project. The Member said that there was no overlap between the previous OT and her

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<sup>10</sup> Exhibit 2, Tab1.

<sup>11</sup> Exhibit 2, Tab1, p. 1.

<sup>12</sup> Exhibit 2, Tab19, p. 218.

<sup>13</sup> Exhibit 2, Tab19, p. 218.

<sup>14</sup> Exhibit 33.

<sup>15</sup> Exhibit 2, Tab 1.

<sup>16</sup> Exhibit 42.

commencement of her job at The Bridge. She was not given a training day but was given some documents to sign (e.g. employment contracts) and shown the physical layout of space and things like the data tracking tool. On a weekly basis, she would talk with Mr. Bowick who she stated told her that she was to encourage clients to come to OT, as that was the expectation.

24. The Member testified that at times, she was the only staff person in the building. Her office was on the main floor and she would sometimes close and lock her office door and “hang out in the common room and engage in general chitchat”. She testified that there was not really a typical shift and there was no pre-set schedule although groups were consistent. Otherwise, she fit in individual client meetings around other meetings.

25. Once a month on Wednesday evenings, it was mandatory that she attend the Bridge Board meetings that were not considered to be part of her 16 hours per week, although she was allowed to leave early to manage that time. The Member stated that Board meetings were open to everyone and she encouraged all clients at the Bridge to attend these meetings.

26. With the aid of Exhibit 43, the Member described the layout of the first floor of The Bridge, where her office was situated in relation to the front door, the common area, and the other office. She described the layout of her office and stated that the resources (e.g. brochures indicating where clients could obtain food) available in her office were duplicate resources that were also available in the common room. In the common room, there was a coffee station and a bulletin board with community happenings and additional resources, and that there were no restrictions regarding who could walk in and use the resources.

27. The Member described the neighbourhood as ‘the ghetto’ saying that it was a low-income neighbourhood and close to the train tracks. She did not like working by herself and on occasion had to call 911 due to street altercations. It was the Member’s evidence that she didn’t ever feel safe or comfortable at The Bridge. She was the object of sexualized remarks from The Bridge’s clients. The Member testified that she did not have access to the software for the security cameras that were on site, as they were in Mr. Bowick’s office. She had raised these safety concerns with Mr. Bowick, who told her that they were doing the best that they could as a small organization.

28. Mr. Bowick confirmed that the Member worked at The Bridge from April 2016 to October 2017 and was contracted to work 16 hours per week. Mr. Bowick further confirmed that her roles were those as set out in the Job Description. He confirmed that he and the Member discussed the need for clients to meet with her weekly. Mr. Bowick recalled that they debated as to whether this model was working. The Member would advise him as to which clients were not complying with this expectation. Mr. Bowick did not remember the Member ever identifying the Complainant as a non-compliant client or one that should be “discharged”.

29. Mr. Bowick could not recall if he or the Member set up her signature line on her email. The Member’s signature identified her only as an OT and not also as a reintegration facilitator.

30. In her testimony, the Member claimed that she was not always providing OT services at The Bridge. She stated that when she was not required to apply an OT process or theoretical

model, such as when she made someone aware of a community resource, she was actually working as a reintegration facilitator. However, the Member admitted during cross-examination that in her annual College renewals she recorded that she provided 16 and later 20 hours per week of OT services while working at The Bridge.

31. Mr. Bowick explained that the Member's clinical client files were retained in her office. The general client files, which would include housing and other such information, were located in his office. This split started with the former OTs (there were two OTs at The Bridge before the Member arrived), but it became more "complicated" when the Member arrived.

32. Mr. Bowick described the Member as a hard worker, highly skilled and competent, and an impressive OT. He used the word "fantastic." Mr. Bowick testified that the Member set up programs for the clients and was "great" working with them.

33. It was Mr. Bowick's evidence that the Member provided OT services to the Complainant when the Complainant was a resident at The Bridge.

### **The Complainant**

34. In August 2016, the Complainant was a 37-year-old divorced man. He had just completed serving a sentence for dangerous driving and attempted theft of a motor vehicle. He was previously employed as a butcher. The Complainant was dealing with substance abuse problems.

35. Mr. Bowick recalled that the Complainant was a resident of The Bridge but could not independently recall the exact time parameters or the circumstances of his departure.

36. It was Mr. Bowick's evidence that he recalled the Complainant as being very likeable and that he was quiet and a hard worker. The Complainant seemed like a happy person to Mr. Bowick, who had no recollection of the Complainant ever losing his temper. The Complainant wanted to participate and was involved in committees at The Bridge. Mr. Bowick recalled that after he moved out, the Complainant was still an active participant at The Bridge.

37. Ms. Mason described the Complainant as easy-going, easy to talk to, presentable, and a very nice man. She recalled that he was determined to not re-offend. Ms. Mason stated that The Bridge considered the Complainant to be a great success.

### **The Member's interactions with the Complainant at The Bridge, early August to mid-November 2016**

38. On August 6, 2016, the Complainant became a resident of The Bridge. The Complainant learned of The Bridge while in jail. The Complainant described The Bridge as temporary housing for men who have been incarcerated and were integrating into the community while looking for employment. At that time, he was not working or going to school.

39. It was the Complainant's evidence that he resided at The Bridge from August 6, 2016 to January 31, 2017. He testified that he continued as a client of The Bridge until February 2017.

40. The Complainant testified that initially he was feeling anxious and nervous. He didn't know what to expect but was grateful to be able to stay at the Bridge. The Complainant testified that his main goal was to maintain his sobriety. He indicated that he wanted to get out of The Bridge as fast as he could; to be independent; working; and taking care of himself.

41. The Complainant described his introduction to The Bridge and his initial meetings there with various staff members, including Mr. James Bowick, Mr. John Schuurman, and the Member. He testified at the hearing about his understanding of The Bridge's rules and his completion of various forms at these initial meetings.

42. The Complainant testified that Mr. Schuurman gave him a form to apply for Ontario Works in order to receive the \$375 he was to pay The Bridge. This made him feel poor since he had always been a functioning addict and had been working as a butcher for 15 years.

43. The Complainant testified that the services offered at The Bridge included weekly access to OT services that were mandatory for residents, men's night (game night); a weekly dinner that was mandatory for all residents; an after dinner mandatory meeting for one hour; and a mandatory Friday morning breakfast.

44. The Complainant indicated that when he first came to The Bridge, he was not aware of what an OT was, but knew that the Member was acting as his OT. He recounted his general recollections regarding the dates and content of discussions with sessions with the Member, including his understanding of the responsibility by him to meet with her on a weekly basis. He testified that he had not had therapy previously since it was not something done by his family and would show weakness.

45. The Complainant testified that he became excited about The Bridge since he had no other place to go and thought of it as a stepping stone from which he could build a life.

46. During cross-examination, the Complainant was taken to the transitional housing agreement he signed when he began residing at The Bridge on August 6, 2016,<sup>17</sup> which contained no mention of mandatory OT meetings. The Complainant's evidence was that he was told by Mr. Bowick and Mr. Schuurman that there were mandatory meetings that were to take place with the OT. He testified that Mr. Bowick and Mr. Schuurman prided themselves on having an OT at the Bridge.

47. After reviewing aspects of Exhibit 2, the Joint Document Brief, the Complainant testified that the documents indicated to him that the Member was the reintegration worker and the OT at The Bridge. The first time he met the Member was on Tuesday, August 9, 2016 when she came out of her office and Mr. Bowick introduced her as the OT with whom the Complainant would meet. Mr. Bowick described the Member as the OT who would help him with his integration

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<sup>17</sup> Exhibit 2, Tab 19, p. 217.

process and he had the ability to speak with her privately. The Member testified that when she asked to meet with the Complainant, he agreed to do so because he thought that meetings with the OT were mandatory.

48. It was the Complainant's evidence that he learned what an OT was at his first private session, which took place on Friday August 12, after breakfast. The Complainant was eating breakfast and then cleaning dishes, and the Member approached him. They went to her office and she described the fact that her office was a "safe place"; the fact that discussion were confidential and not to be shared with staff except if she thought that he would harm himself or someone else in accordance with her College's guidelines.

49. When asked what expectations he had with respect to meeting with the Member, the Complainant indicated that he didn't have any but he understood that it was mandatory that he meet with her.

50. The Complainant reiterated that he hadn't had therapy before. It was his evidence that he had no expectations and was nervous about the meetings. At a meeting with the Member on August 12, 2016, he asked whether he had to tell her why he was in jail; she said that it was not necessary; but he told her anyway. The Complainant testified that he told her that he was convicted of dangerous driving and that he had a suspended licence, a fact that the Member said did not occur.

51. The Member testified that at her initial meeting with the Complainant, she asked him general questions about himself and explained the services that she as an OT could provide. She stated that she reviewed the content of the consent form with the Complainant but he preferred not to sign it. The Member reported that she told the Complainant, as she did all residents, that participation in the weekly OT sessions was voluntary and that consent for occupational therapy was ongoing. The Member testified that discussion in that initial meeting included conversations regarding financial assistance, acquisition of food, previous and future employment, medical history regarding his back pain and subsequent substance use, possible home relocation, and meeting new people. Despite those conversations, the Member said that no specific goals were identified in that session but that the plan was to give the Complainant time and continue to meet with him to see if goals were indeed identified.

52. The Complainant testified that he was using all of the services at The Bridge which included group discussions, weekly one-on-one OT sessions, art night and the barbecue dinner.

53. It was the Complainant's evidence that he met with the Member every week, first on Fridays and then Thursday after he obtained work. He was told that she worked on Tuesdays, Thursdays and Fridays.

54. The Member confirmed that it was an expectation that residents (those who lived at The Bridge) receive OT on a weekly basis. She testified that her schedule was not pre-set regarding when she saw a particular resident. The Member testified that she kept a file for each resident, including for the Complainant, as she determined whether OT services were required and to then

keep track of services if they had begun.

55. In the course of his testimony, the Complainant was asked to review several aspects of the client record that the Member maintained in relation to him.<sup>18</sup> He indicated that he had never seen the client progress notes previously.

56. Upon a review of the client notes, the Complainant testified that he did not recall the details set out in the August 11, 2016 note.<sup>19</sup> When asked about the August 12, 2016 note,<sup>20</sup> the Complainant indicated that there was no discussion and he had no knowledge of the Member's consent form<sup>21</sup> and that he disagreed with the statement about declining to sign the consent form. The Complainant reiterated that he never saw the form. It was the Complainant's further evidence that he did not recall terminating the meeting early. The Complainant disagreed with the note about him knowing where things were in the city and indicated that he knew nothing about Hamilton. Moreover, the Complainant disagreed with the last paragraph concerning him not wanting support. He testified that he "embraced" it.

57. When taken to the August 19, 2016 entry in the clinical notes,<sup>22</sup> the Complainant testified that he had no recollection of the Member asking him for his consent. Overall, the Complainant did not find the entry to be accurate. He thought that the meeting was in the morning and there was no discussion about going back to school. He had mentioned that he had hurt his back and they discussed his failed marriage. The Complainant did not recall a discussion about financial support but testified that he never denied support, however he did not want to participate in the Ontario Works program. The Complainant further indicated that he disagreed with the Member's Analysis.

58. The Member testified that on September 15, 2016, she called the Complainant's probation officer as requested within a fax from the officer. In the call, she confirmed that the Complainant was living at the Bridge and told the officer that the Complainant was making progress in his goals without her support. The Member testified that she told the officer that she was not involved with the Complainant and was not providing counselling to him.

59. The Complainant recalled that between August and October 2016, he attended weekly sessions with the Member that varied in duration from between 30 to 40 minutes. In August, the discussions were about the Complainant's past; his addiction; his failed marriage; his inability to have children because of his low sperm count resulting from his drug addiction and anxiety. From the Complainant's perspective, the Member was someone he could talk to and receive psychotherapy concerning past problems, including his addictions and what led up to them.

60. The Complainant recalled that in September, his discussions with the Member involved his goals and employment experience. He recalled the discussions included the building of a resume; networking; the stigma of incarceration; anxiety; and volunteering.

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<sup>18</sup> Exhibit 2, Tab 9.

<sup>19</sup> Exhibit 2, Tab 9, p. 29.

<sup>20</sup> Exhibit 2, Tab 9, pp. 29-30.

<sup>21</sup> Exhibit 2, Tab 9, p. 36.

<sup>22</sup> Exhibit 2, Tab 9, pp. 30-31.

61. The Complainant testified that the first sessions were “slow” because of his concerns about using therapy as they related to his family background and the fact that therapy would show weakness. He wanted to “open up” about his issues. The Complainant disagreed that there was any discussion concerning a plan as set out in the analysis on the client chart.

62. When his attention was drawn to the entry in the client notes dated August 25, 2016,<sup>23</sup> the Complainant indicated that although he did not have a distinct recollection of the meeting, he did not agree with the details recorded there. It was the Complainant’s evidence that there would have been a discussion about his anxiety, depression, marriage and time in jail.

63. Similarly, when his attention was taken to the clinical note dated September 8, 2016,<sup>24</sup> the Complainant testified that if he had cancelled the meeting, he would have needed a reason to do so. The Complainant denied that he ever said that he did not require OT services.

64. The Complainant’s testimony in relation to the clinical note entry dated Friday September 9, 2016 was that the entire entry was inaccurate. He was at The Bridge and believed that availing himself of OT services was mandatory. It was his evidence that he had regular sessions with the Member and that his consent to receiving OT services was not discussed. The Complainant testified that he needed and wanted the support that the Member offered and it helped him. The Complainant was adamant that he never refused services.

65. The Complainant reiterated that he never said he did not need OT services. He testified that the Member was very helpful and provided him with all the resources. On cross-examination, the Complainant indicated that some of the resources that he was able to obtain did not come from the Member.

66. When taken to the clinical note entry dated October 6, 2016,<sup>25</sup> the Complainant testified that what was described there as a “group bike ride for men at The Bridge” was only attended by himself with the Member, and that it was not in fact an organized event for men at The Bridge.

67. The Member testified that on October 6, 2016, she organized a group bike ride and the Complainant was the only one that attended. Regarding the bike ride, the Member said, “No, I didn’t provide him with OT services. He did not need OT services to ride a bike.” The ride was not documented in the spreadsheet detailing the Complainant’s interactions at The Bridge;<sup>26</sup> however, the Member did document it in the client chart to “show he was there”.

68. The Complainant further testified that he went on bike rides with the Member in October to early November 2016. They were not organized bike rides. There was nothing of a sexual nature involved in the rides. When it was put to him in cross-examination that the Member

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<sup>23</sup> Exhibit 2, Tab 9, p. 31.

<sup>24</sup> Exhibit 2, Tab 9, p. 31.

<sup>25</sup> Exhibit 2, Tab 9, p. 33.

<sup>26</sup> Exhibit 2, Tab 2. This spreadsheet was maintained by all team members to record client interactions at The Bridge.

would testify that the bike rides were organized for everyone at The Bridge, the Complainant disagreed with that suggestion.

69. In October, the Complainant suffered a pinch in his back while lifting shingles when working part-time as a roofer. He discussed with the Member an old injury; prior scoliosis; going back to school; the fact that he was jealous of his wife's teaching position; the fact that he had never graduated from high school; his aspiration of being an Ontario Provincial Police officer but that this would not be possible because of his criminal record; and his math ability. He testified that they talked about his failure to complete high school, and the options for getting a college credit in those circumstances; and that he also discussed this issue with a person who came to The Bridge and with Mr. Bowick. The Member gave him a package about how to obtain his graduation from high school.

70. The Member testified that she attended a Thanksgiving dinner at the Bridge on October 11, 2016 and saw that the Complainant seemed to have difficulty standing up after sitting. She said that the Complainant told her that it was a recurring injury. The Member advised him that he could access free physiotherapy because he was on social assistance. The Member said that the Complainant indicated that he did not want physiotherapy.

71. In cross-examination regarding not identifying any OT goals, the Member stated that while the Complainant identified things that were important to him, these were not occupational therapy goals. The Member said that she did not administer the Canadian Occupational Performance Measure (COPM) or any other assessment to determine OT performance issues or goals. The Member testified that in a typical occupational therapy process, she would be required to gather information about the individual, the task, and the environment and develop detailed intervention plans. She stated that the Complainant did not require occupational therapy interventions such as discussing job searches, practising job interviews with role playing, discussing different types of paid work, and organizing job shadowing opportunities or visits to job sites. With regard to how gardening could be occupational therapy, she talked about modifying tasks for increased client participation such as raising the garden beds and pacing the activity. She stated that the Complainant did not require these modifications. The Member stated, that "At no time did I provide OT services to [the Complainant]".

72. The Member stated that by mid-October 2016, she ultimately decided that the Complainant did not require occupational therapy as he had not identified any goals and consistently refused any assistance from her. She testified that, in advance of October 13, 2016, she told Mr. Bowick and Mr. Schuurman that the Complainant would be discharged from OT and that Mr. Bowick objected to this. She said that the issue was "left in disagreement". She admitted in cross-examination that she did not chart this discussion in any way.

73. Although not documented by the Member within the chart, on October 13, 2016, she sent the Complainant a three-page document outlining how to complete a high school diploma<sup>27</sup> as she knew that he was planning on going back to school. She stated that this document was sent to a number of bridge clients and that the Complainant was not singled out and by sending the

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<sup>27</sup> Exhibit 2, Tab 14.

information to him, she was not providing OT to the Complainant.

74. In reference to the clinical note entries dated October 11 and October 13, 2016,<sup>28</sup> the Complainant testified that he recalled the Thanksgiving dinner, which he attended using a walker. While he could not recall the specifics of the discussion two days later, he testified that it did take place. At the meeting, he said that he discussed going back to school which was not mentioned in the entry for October 13.

75. The October 13 entry in the Complainant's client progress notes is headed "OT Note – Discharge/Determination of no need for services".<sup>29</sup> He reviewed an email the Member sent him on October 13, 2006 at 4:17 p.m.<sup>30</sup> with respect to the October 13 entry and testified that he recalled her asking him if the material was useful and that she would provide any other information. When asked whether he was discharged by the Member, however, the Complainant testified that there was no such discussion.

76. Mr. Bowick confirmed that he had no recollection of the Member ever telling him that the Complainant should be discharged. The Complainant's evidence that he was not discharged from receiving OT services on October 13, 2016 also seemed to be confirmed by an email the Complainant sent to the Member on November 3, 2016, in which the Complainant indicated that he was not working that day and was "wondering if [she could] fit [him] into [her] busy schedule, asking her to "just text my phone with the time if you have a space open".<sup>31</sup>

77. The Member testified that after the Complainant's October 13, 2016 discharge, she remained available for the Complainant and sent him resources and shared connections in her role as Reintegration Manager. The Member testified that individual resident reintegration plans were discussed at staff meetings and that Mr. Schuurman and other people in the community such as Ontario Works case workers would assist residents with their plan. Reintegration plans were not just her responsibility.

78. It was the Member's evidence that after October 13, 2016, she continued to have contact with the Complainant through the Friday breakfast program and that their paths crossed when she was scheduled to work.

79. Overall, it was the Complainant's evidence that the clinical note entries<sup>32</sup> were not truthful and that they were fabricated.

80. In direct examination, the Member commented on each entry in the Complainant's client file.<sup>33</sup> She stated that these entries only reflected her inquiries as to whether the Complainant required occupational therapy services. The Member confirmed that she met with the Complainant on a weekly basis. She stated that the Complainant was reluctant to accept her

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<sup>28</sup> Exhibit 2, Tab 9, p. 33.

<sup>29</sup> Exhibit 2, Tab 9, p. 33.

<sup>30</sup> Exhibit 2, Tab 16, p. 62.

<sup>31</sup> Exhibit 2, Tab 10, p. 41.

<sup>32</sup> Exhibit 2, Tab 9.

<sup>33</sup> Exhibit 2, Tab 9.

assistance and said that he didn't need therapy. In cross-examination, the Member acknowledged that each entry was signed by her and that she used her credentials, 'OT Reg (Ont)' and that she entitled each note with 'OT Note'. The Member stated that she was "assessing the need for OT services". She was then asked if she was acting as an OT and she said, "yes". In cross-examination, the Member agreed that she never signed off her notes as a reintegration facilitator and said that she did not do so as the College would not agree with her doing that and that she must sign with the designation "OT Reg (Ont)".

81. Mr. Bowick was taken to the spreadsheet describing services provided to the Complainant.<sup>34</sup> He said that all staff—including the Member—were expected to identify services provided to clients. Mr. Bowick created the spreadsheet and created pull down menus to individualize the information. The intent was to: (1) show supporters how their contributions were being used, (2) provide data to the fundraising committee, (3) ascertain the effectiveness of certain programs, and (4) track individual client participation. It is noted that the Member's first entry with regard to her interactions with the Complainant is dated August 8, 2016 and her last entry is dated August 25, 2017. There is a discharge entry for the Complainant on February 24, 2017.

82. When questioned about the conflicts between her charts and the spreadsheet utilized by all staff members to track client interaction,<sup>35</sup> the Member said that the spreadsheet was not her chart and that it was used to record any and all client interactions at The Bridge for funding purposes. She stated that she did her best to record everything in the spreadsheet but that The Bridge was extremely chaotic and disorganized, therefore she sometimes retroactively recorded items. The Member said that she would often make additional and personalized entries that indicated her reflective practice as to whether her services fell within the Canadian Practice Process Framework ("CPPF"). The Member stated that these comments under the 'Notes' column of the spreadsheet were her attempt to collect qualitative data to help her develop programs and for her professional development, as she was attempting to understand how things may or may not fit into the CPPF. She testified that the entries are not indicative of a specific meeting or service provided and that clients at the Bridge did not need to be receiving occupational therapy for her to make an entry with CPPF terminology into the spreadsheet. She stated that even if she saw someone for ten minutes, they would be marked on the spreadsheet.

83. When asked in cross-examination if she destroyed the Complainant's chart,<sup>36</sup> the Member replied, 'No, I did not.'

### **The Kiss, November 15, 2016**

84. There was conflicting evidence concerning the events that led up to what is described as "the Kiss".<sup>37</sup>

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<sup>34</sup> Exhibit 2, Tab 2.

<sup>35</sup> Exhibit 2, Tab 2.

<sup>36</sup> Exhibit 2, Tab 9.

<sup>37</sup> In this document, it is also referred to as the "November 15 Kiss" and the "November 15, 2016 Kiss".

85. The Complainant testified that in the beginning of November 2016, he was continuing to receive OT services from the Member. They discussed the courses he was taking through Mohawk College at the church nearby and also his anxiety. Their discussion also focused on his schooling and relapse prevention. At this time, the Complainant disclosed to the Member that a resident of The Bridge was using drugs. They also discussed the GED<sup>38</sup> matter and the credit program issue.

86. It was the Complainant's evidence that on November 15, 2016, the Complainant asked the Member to go for coffee, and after that, they went for drinks at her suggestion. They went to a bar called "The Ship". They flirted and their legs were intertwined. He testified that he had two drinks, but that the Member may have had only one, and that the Member paid for them. He testified that he drank because he wanted to be with her. According to the Complainant, they looked into each other's eyes and there was mutual interest.

87. The Member testified that she was not attracted to the Complainant on or before November 15, 2016. She said that on November 15, 2016, she was leaving The Bridge and the Complainant asked what she was going to do. The Member said that she was going to a coffee shop to get some work done on her thesis. The Complainant asked if he could come along and she agreed as it was the middle of the day, she knew that the Complainant was going to do work, and it was in a public place. The Member also thought that she could answer questions regarding his application process. She testified that she did not feel threatened and that she thought it was acceptable to The Bridge to access the community with residents. She testified that they biked separately and locked their bikes outside the coffee shop.

88. The Member stated that she paid for her own coffee and sat near the window so she could keep an eye on her bike. She said that she and the Complainant sat separately and worked on their own tasks. They left the café at the same time.

89. The Complainant testified that as the Member was unblocking her bike, he kissed her. The Complainant acknowledged that he surprised the Member with the Kiss but testified that she responded to it. He testified that after the Kiss, he said something to the effect of "Thanks for the evening. I like you."

90. The Member testified that as she was unlocking her bicycle, her head was down, and when she raised it, the Complainant put his lips on her lips and jammed his tongue into her mouth. The Member testified that he groped her breasts and her buttocks and pulled her close. She said that she was standing there frozen and couldn't see anything until it was over and that she just wanted it to end. She stated that she felt "violated, confused, uncomfortable, terrified".

91. It was the Complainant's evidence that after they kissed, he and the Member biked home separately to their respective residences. The Member testified that after the Kiss, the Complainant cycled away. It was her evidence that she then remembered that she had not eaten so she went to a nearby bar and ordered a burger.

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<sup>38</sup> "GED" is an acronym for the tests comprising the General Educational Development, a series of four subject tests that demonstrate high school academic knowledge.

92. The Complainant testified that he sensed that the Member was uncomfortable about their time together on November 15. The Complainant knew that he couldn't talk at The Bridge about this because he was the Member's client.

93. Regarding the Kiss, the Member testified, "I didn't understand it was sexual assault until after therapy" and, "Through the assistance of a therapist, I was able to label that as a sexual assault." She stated that this therapy occurred in Winnipeg in July and August, 2018.

### **Events after the Kiss, November 2016 to January 2017**

94. The Member testified that after the November 15 Kiss, she spent a sleepless night. She reviewed the College's standard about boundaries<sup>39</sup> the next day, November 16, 2016. She testified that she reasoned that because the Complainant was not her client, there was not a power imbalance as he was not dependent on her to help him access resources and that she did not know anything about his medical history or personal health information other than his past struggles with addiction. Accordingly, she felt that the standards were not applicable to her situation. The Member testified that she also felt that her role at The Bridge was a role-emerging and not a traditional setting and therefore much of the authority assumed by the standard did not exist and that the standards were not applicable to her situation. She testified that she "assumed that authority did not exist because she was a woman" and was actually in "a position of vulnerability" at The Bridge. The Member stated that she did not find the standards helpful and that after reading them she felt like she had done something wrong.

95. The Member confirmed that she never contacted the College to discuss the November 15, 2016 Kiss. She confirmed that she did not document the Kiss, her review of the College's Standards for Professional Boundaries, or her intent to contact the Complainant.

96. It was Mr. Bowick's evidence that he would have expected the Member to confide in him if something traumatic happened to her; however, he conceded that after late December 2016, this would have been unlikely due to the deterioration of their relationship.

97. The Member testified that she decided to contact the Complainant to discuss what happened. She did not see the Complainant at The Bridge on November 17 or 18, 2016 and so she called him. She testified that the Complainant immediately apologized and said that it would not happen again. They met later that day at the waterfront to have a further discussion and the Member told the Complainant that what happened was inappropriate and could never happen again. The Member testified that he again apologized and assured her that it would not happen again. The Member confirmed that she did not document her call with the Complainant or their arranged meeting and conversation.

98. The Complainant testified that a couple of days after they kissed on November 15, 2016 – he believes, on November 17 or 18, 2016 – he and the Member went to a bar where a blues band

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<sup>39</sup> Exhibit 2, Tab 17, *Standards for the Prevention of Sexual Abuse* .

was playing. After that, they went down by the waterfront and cuddled. It was very romantic. It was the Complainant's evidence that the Member invited him back to her place, where they engaged in oral sex and unprotected sexual intercourse. The Complainant testified that he stayed the night after discussing The Bridge's curfew with the Member, and recalled that she told him that the security cameras at The Bridge didn't work.

99. When he was shown that her records indicated that he was discharged from OT on October 13, 2016, the Complainant testified that he believed that he was still receiving OT services on November 18.

100. The Complainant believed that the Member was his OT on November 18. During his direct examination, the Complainant reviewed a number of emails, including one dated November 17, 2016 which indicated that the Member had intervened with Mohawk College on his behalf,<sup>40</sup> and another from November 18, 2016, in which the Member referred to having spoken to "Chris from Academic Upgrading" about his situation.<sup>41</sup>

101. The Complainant recalled that after this first occasion, he and the Member had sex 3 to 4 times a week at her place of residence and that there was no gap in time after they first had sex in mid-November.

102. The Member testified that on November 20, 2016, the Complainant called her at around 11:00 p.m. and told her that he was locked out of The Bridge and had nowhere to go. She said that she felt obliged to provide a space for him and invited him over to her place. She testified that the Complainant did come over but that there was no sexual touching. The Member testified that the Complainant came over again a few days later as well, although she does not recall how he came to be at her place. She testified that he was lying behind her and stroked her hair and he may have kissed her neck but they did not have intercourse. The Member confirmed that she did not document the Complainant contacting her or coming over to her place.

103. When asked whether he received OT services after the sexual relationship began, the Complainant testified that the discussions about his issues within the sessions with the Member continued as they had before.

104. When asked how he felt when the sexual relationship began, he testified that he felt special; that he was getting more attention; he was overwhelmed and didn't think that a person in her position would have a relationship with a person in his position. He noted that she never held it over him that he was a criminal with no money.

105. The Complainant testified that there was no mention of their personal relationship with anyone at The Bridge. The Complainant did testify, however, that Coley, a volunteer at The Bridge, who was a friend of the Member knew of the relationship. He and the Member attended a wedding together at the end of November with Coley.

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<sup>40</sup> Exhibit 2, Tab 10, p. 42.

<sup>41</sup> Exhibit 2, Tab 11, p. 44.

106. The Complainant testified that no one else at The Bridge knew of the relationship. When asked why he didn't tell anyone, the Complainant indicated that the Member told him that he had to keep it secret and that her job was on the line. He further testified that to keep it secret, they got together later at night and frequented different bars in different areas of the city to avoid running into anyone from The Bridge. The Complainant testified that he lied to everyone at The Bridge about the relationship, which included telling them that he was moving in with another student from Mohawk College.

107. The Complainant testified that he also lied to Karen Mason. He volunteered on committees such as being on the finance committee. In early 2017, Ms. Mason would offer to drive him home and he would lie about his address so that he was dropped off a few blocks away from the Member's residence to hide his relationship with the Member.

108. The Member testified that she was aware of the rule at The Bridge that staff were not allowed to have a personal relationship with a client. She testified that she would see the Complainant at The Bridge on Thursday night and that he would sometimes use the table in her office and they would close the door and have a conversation as boyfriend and girlfriend.

109. The Complainant recalled that during one of his private sessions with the Member at the end of November, he told her that he was concerned about his roommate and his use of heroin. She thought it would be a good idea for him to know how to deal with it, and subsequently, she invited the Complainant to a training session regarding Naloxone kits and overdose training.<sup>42</sup>

110. The Complainant testified that in November and December, 2016, he believed his relationship with the Member was great but he also thought it was moving fast. She was making most of the decisions. She was talking about looking at apartments as a couple and he thought things were moving fast. He was hesitant but excited.

111. The Complainant testified that the owner of the residence in which the Member resided was a woman named Mary who lived downstairs from the Member. He met her on several occasions.

112. Mary Bik testified that she is the Member's former landlady. She is now retired but had previously worked as a psychiatric registered nurse for 40 years. Ms. Bik rents rooms in her home to McMaster University students. Ms. Bik rented a room in her home to the Member. She could not recall the exact time period that the Member lived in her home, other than she had lived there for approximately 6 months. She stated that the Member moved in approximately September 2016 and left in February 2017. (These dates are likely incorrect, as both the Member and the Complainant testified that the Member moved out at the end of December 2016.)

113. Ms. Bik, however, seemed to have good recollection of her interactions with the Member and the Complainant. She correctly recalled that the Member is from Manitoba. She recalled that the Member attended university during the day and worked at a place where there were men rehabilitating from jail. Ms. Bik testified that she recalled that the Member brought a couple of

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<sup>42</sup> Exhibit 2, Tab 13.

boyfriends to her home, which Ms. Bik did not have an issue with. She recalled that the last boyfriend that she brought was staying, “All the time. Every night. Maybe a break one night. More than 20 nights. Less than 30 nights” between November and December 2016.

114. Ms. Bik (who was not cross-examined) testified that this man was about 30-ish, a little bit dishevelled looking, smoked a lot and he was white. She additionally recalled that this boyfriend had directly told her that he was a roofer, although the Member told her that he was a butcher. Ms. Bik’s description of the man is consistent with the Complainant’s appearance.

115. Ms. Bik recalled an incident when the Member and this boyfriend were having wine and “getting super happy” in the kitchen. After he left, she told the Member that she did not appreciate her style. Ms. Bik stated that she cannot tolerate that behaviour and that the Member “better leave”. The Member responded that she had rights and informed Ms. Bik of these rights. Subsequently, the tenancy ended.

116. During this time, emails between the Member and the Complainant were very personal. In an email dated December 1, 2016, the Member addressed the Complainant as “Stud”, and indicated that she was “thinking of [him] naked”, and used her short form signature “Sam”<sup>43</sup> to avoid anyone at The Bridge knowing who it was sent from. The Complainant confirmed receipt of the emails, and that one in particular.

117. When asked during her direct examination why she would send emails to the Complainant, addressing him as, “Hey Stud” and talking about picturing him naked<sup>44</sup> and saying that she loved him “soooooo much”<sup>45</sup>, the Member replied, “It was authentic. That’s how I felt. I was all-in.”

118. In cross-examination, the Member was also asked about her November 27, 2016 email to the Complainant (that she wrote 12 days after the November 15 Kiss),<sup>46</sup> which included a link to “our” apartment search and called the Complainant “Stud”. When asked whether it was her evidence that she was prepared to move in with a man before they had sex together, she replied, “Yes”. With regard to the email dated December 1, 2016 to the Complainant, where she states “I’m thinking of you naked while I’m writing this”,<sup>47</sup> the Member was asked whether she had seen him naked by this point in time and she replied, “No”.

119. The Member testified that she and the Complainant began to spend more time together. She stated that she had been looking for an apartment for a while due to conflicts with her landlord, Mary Bik. The Member confirmed that she sent emails to the Complainant regarding moving in together and that they started to look for apartments together. He had told her that it was difficult to live at The Bridge and wanted to move out but that he could not afford a place of

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<sup>43</sup> Exhibit 2, Tab 4, p. 16. “Sam” what is an acronym consisting of the first letters in the Member’s first, second and third given names.

<sup>44</sup> Exhibit 2, Tab 4, p. 16,

<sup>45</sup> Exhibit 2, Tab 15, p. 60.

<sup>46</sup> Exhibit 7.

<sup>47</sup> Exhibit 2, Tab 4, p. 16.

his own. She stated that she wanted a place of her own but also admitted that she drafted a letter for the Complainant to secure his salary information from his employer to permit them to rent a place together.<sup>48</sup> She testified that she thought that things were moving too fast although she testified that at this point, they had not had sexual intercourse yet. During his direct examination, the Complainant identified an email dated December 6, 2016,<sup>49</sup> which was addressed to a rental agent and on which he was copied. In it, the Member stated, “I would like to confirm that [the Complainant] and I are no longer interested in . We have found some thing that better suits our needs.”

120. The Complainant also identified an email from the Member’s email account at The Bridge dated January 25, 2017 which was addressed to him and included the statement, “love you sooooo much”<sup>50</sup>

121. It was the Complainant’s testimony that in November and December of 2016, his meetings with the Member focused on his return to school in order to complete his education. The Complainant testified that by this time he was feeling “amazing” and that the Member was helping him get over his anxiety and being proactive. The Complainant testified that in December 2016 he was still receiving OT services from the Member.

122. The Complainant recalled that when he was still a resident at The Bridge and in the personal relationship with the Member, they would sneak glances and exchange smirks while at Bridge activities. He testified that she mentioned that she was excited about how they were sneaking around and no one knew of the relationship. The Complainant testified that he didn’t tell anyone because he thought that they had to keep it a secret for a year.

123. The Member testified that she invited the Complainant to join her on a trip to Winnipeg that she had already planned in order to visit her parents for Christmas. She testified that she introduced the Complainant as her boyfriend but did not tell her parents that he was a resident at The Bridge. The Member testified that she and the Complainant first had sexual intercourse during the last week of December while they were in Winnipeg visiting her parents.

124. Regarding her email exchange with the Hamilton Legal Clinic of January 13 and 16, 2017 in which she was trying to arrange for legal services for the Complainant,<sup>51</sup> the Member testified that she used the word, “client” because she thought that the clinic would be more amenable to assisting the Complainant if she used that language.

125. The Complainant testified that he stopped using OT services at The Bridge because he was in a sexual relationship in January 2017 and no longer a resident at the end of January 2017. While a resident, the OT services were mandatory. When he moved in to the Member’s residence he used the other services at The Bridge, but not the OT services.

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<sup>48</sup> Exhibit 2, Tab 5.

<sup>49</sup> Exhibit 2, Tab 6, p. 21.

<sup>50</sup> Exhibit 2, Tab 15 p. 60.

<sup>51</sup> Exhibit 11.

### The letters dated February 9 and 10, 2017

126. The evidence at the hearing disclosed that the Member wrote two substantially similar “To Whom It May Concern” letters that referred to her interactions with the Member while he was at The Bridge, one dated February 9, 2017<sup>52</sup> and the other dated the following day, February 10, 2017.<sup>53</sup>

127. There is, however, a significant difference between the two letters, and that is in the first paragraph of each of them. The February 9, 2017 letter states the following in its first paragraph:

The following letter is to acknowledge that [the Complainant] has been attending weekly individual sessions with myself, [the Member], Occupational Therapist, since August 2016. The purpose and focus of these weekly sessions include the following:

- Engaging in talk therapy to develop insights on personal motivations and aspirations
- Setting goals and developing plans to meet those goals
- Learning and applying problem solving skills to every day issues
- Exploration of how his thoughts, behaviours and emotions work together to impact his ability to engage in meaningful tasks and develop positive relationships
- Replacing all or nothing thinking patterns that lead to procrastination with flexible, solution focussed thinking
- Developing an awareness of higher level systems and how these impact and guide our day-to-day lives as a way to better understand the thoughts of being targeted and decrease feelings of being singled out<sup>54</sup>

128. The February 9, 2017 letter continues, “Since [the Complainant] came to The Bridge and began engaging in Occupational Therapy sessions he has: [and a list of accomplishments follows]”.

129. This reference to weekly OT sessions does not appear in the February 10, 2017 letter, nor does the list of items that illustrate the purpose and focus of those sessions. In fact, the February 10, 2017 letter does not refer to the Complainant receiving OT services at all. Instead, the opening paragraph of the February 10 letter states as follows:

The following letter is completed on behalf of The Bridge to acknowledge that [the Complainant] has been living at The Bridge Since August, 2016. Since the complainant came to the bridge, he has completed the following goals without the intervention of this writer: [...]<sup>55</sup>

130. Another important difference is that the list of the Complainant’s accomplishments appearing in the February 9, 2017 letter includes, “Obtained permanent housing with another student in an environment that is more conducive to his academic pursuits”.<sup>56</sup> This does not appear in the otherwise identical list of accomplishments appearing in the February 10, 2017

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<sup>52</sup> Exhibit 2, Tab 8, pp. 25-26.

<sup>53</sup> Exhibit 2, Tab 9, p. 39.

<sup>54</sup> Exhibit 2, Tab 8, p. 25.

<sup>55</sup> Exhibit 2, Tab 9, p. 39.

<sup>56</sup> Exhibit 2, Tab 8, p. 25.

letter.<sup>57</sup>

131. With respect to these “To Whom It May Concern” letters dated February 9 and 10, 2017,<sup>58</sup> the Member testified that the Complainant asked her to write him a letter setting out his accomplishments and she told him to ask Mr. Bowick or Mr. Schuurman to write the letter. The Member stated that shortly before February 9, the Complainant said that they were taking too long and that she decided to write the email after the Complainant started yelling. It was the Member’s evidence that she “pulled a template off [her] computer” written for a previous client because she “had never before been in the position to write a letter for someone who is not a client”.

132. The Member testified that she used the template for the first set of bullet points and she listed the Complainant’s accomplishments in the second set of bullet points. She testified that she knew about his accomplishments because she was his girlfriend. The Member sent the letter to the Complainant and asked him if she should add anything else before she printed it. The Member testified, however, that she did not print the letter and does not recall signing it. The Member further testified that she significantly revised the letter the next day to make it more accurate, reflecting that he did not receive OT services from her. It was her evidence that she printed and signed the revised letter and gave it to the Complainant, telling him to use the February 10, 2017 letter and not the February 9, 2017 one.

133. When directed to the February 10, 2017 letter prepared by the Member,<sup>59</sup> the Complainant testified that the letter was false. He had received the earlier letter of February 9, 2017 which referred to OT services and was different than the letter of Feb 10, 2017 that is contained in the chart. It was the Complainant’s evidence that the Member gave him the February 9 letter when he was in the Member’s office. When he was cross-examined about these letters of February 9 and February 10, 2017 the Complainant was adamant that he had not seen the February 10, 2017 letter.

134. Mr. Bowick reviewed what he identified as the Member’s handwriting on the February 10, 2017 letter that stated, “[The Complainant] reported that James [Bowick] and John [Schuurman], colleagues at The Bridge ‘we’re (sic) taking forever’ and not meeting his request for a letter of his personal achievements.”<sup>60</sup> Mr. Bowick testified that this was not likely. The Panel noted that Mr. Schuurman provided a letter to the Complainant.

### **The Complainant and the Member cohabit, February 1, 2017 to June 30, 2018**

135. The Member stated that when they returned to Hamilton, the Complainant told her that things had been stolen from his room while they were in Winnipeg and he became very upset and vocal about the incident. He also told her how difficult it was to get homework done and to remain sober at The Bridge. So he began to spend more time at the Member’s place. The Member testified that the Complainant moved out of The Bridge in late January and moved into

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<sup>57</sup> Exhibit 2, Tab 9, p. 39.

<sup>58</sup> Exhibit 2, Tab 8, pp. 25-26 and Exhibit 2, Tab 9, p. 39, respectively.

<sup>59</sup> Exhibit 2, Tab 9, p. 39.

<sup>60</sup> Exhibit 2, Tab 9, p. 39.

her apartment.

136. The Complainant testified that he lived at The Bridge until January 31, 2017. His departure came after some items were stolen and he became very vocal. At that time, Mr. Bowick mentioned to him that he had accomplished so much and that the Bridge was a temporary residence so that he should think about getting his own place that would allow him to study and be independent. He did not have to actually leave The Bridge and could have stayed another six months but he chose to move in with the Member (at ) who had signed a lease solely in her name. After moving in with the Member, the Complainant was still involved with The Bridge and described the activities that he participated in as a non-resident.

137. Mr. Bowick confirmed that the Member never advised him that she dated the Complainant in November 2016 or asked him whether it would be appropriate if she dated the Complainant. Further, at no point did the Member advise Mr. Bowick that the Complainant was moving in with her.

138. The Complainant was directed to Exhibit 2, Tab 19 which was an exit letter sent to John with respect to a letter for the Complainant's probation officer. The Complainant told the probation officer his correct address but did not mention that he was living with the Member. He indicated that he moved in with another student and had exited The Bridge because of the stolen property.

139. Starting in February 2017, the Complainant was at school 5 days a week for classes. He was not working. He had stopped working before the Christmas break. He was not contributing to rent. He testified that this was fine with the Member, who wanted him to focus on school. He still offered to get a job and would contribute to groceries and some bar tabs.

140. The Complainant was directed to an email from the Member's personal email account dated February 13, 2017.<sup>61</sup> He recalled receiving it. It related to the court appearance and his having to return to Sault St. Marie for court. The email closed with, "I love you [...] and I'm lucky that you're in my life" and was signed "Steph".<sup>62</sup> The email made him feel that he could count on her for emotional and financial support.

141. The Member testified that the February 24, 2017 entry of 'conclude/exit//discharge' on the spreadsheet was only recorded by her because that was a date that Mr. Bowick would "accept".

142. The Member left The Bridge in October 2017 and the relationship between her and the Complainant was still a secret. The relationship had its ups and downs. The Complainant indicated that the Member was not happy about him still going to The Bridge.

143. The Member testified that there were no discussions around sharing expenses or rent for the first month and that she would ask him how his housing search was coming along. She asked

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<sup>61</sup> Exhibit 2, Tab 15, p. 61.

<sup>62</sup> This is an abbreviation of the Member's first name.

him to contribute to the household bills. The Member stated that living with the Complainant was like walking on eggshells. She said that he always accused her of making him feel small but that he had adult-sized temper tantrums. She testified that he later agreed to contribute to rent and gave her some sporadic payments.

144. The Member and Complainant provided further details regarding their relationship, including a [redacted] and its [redacted]; his graduation; and her graduation. None of these details is relevant to the issue of whether the Complainant was a client of the Member's at a time when they were involved in a sexual relationship.

145. In June 2018, the Member and Complainant were still living together. He recalled that on the first Saturday in June they publicly declared their relationship since the one year was up. They went to a street fair together and received an invitation from Jim, the social worker at The Bridge to visit his private residence. The Member asked him to go to Jim's residence as a couple since no one could go after them as long as they did not know when the relationship started.

146. The Complainant indicated that he was nervous about going since Mr. Bowick was "by the book". They disclosed that they were dating and planning on going to Halifax.

### **Termination of the Member's and the Complainant's personal relationship, June 2018**

147. The Complainant testified that after the Member returned from Vancouver, the relationship came to an end. At that time, he researched the College website with respect to the filing of a complaint. Their interaction became volatile and police were involved.

148. The Complainant also testified with respect to further detail regarding the breakup of his relationship with the Member and his communications with the College.

149. The Member testified that she realized that she needed to end the relationship in May 2018 after the Complainant showed no compassion or support after she suffered a concussion. She reported that when she returned home from a conference on June 24, 2018, she told the Complainant that she didn't think that it was a good idea for them to go to Halifax together and that she wanted the relationship to end. She testified that the Complainant then left, came home drunk and sexually assaulted her. She did not report this sexual assault to police. The Member said that for the next couple of days the Complainant was "relentless" in trying to change her mind and not break up with him.

150. The Member reported that on June 26, 2018 she told the Complainant that she was not changing her mind about breaking up with him. When the Complainant went out to have a cigarette, he left his laptop open to the College webpage about how to file a complaint against an occupational therapist and positioned the laptop so that it would be more visible to her. When he returned to the apartment, she asked him if he was serious about contacting the College and he smirked and said "Well, we'll just see". The Member testified that she asked him to leave and he refused and started to threaten her. She confirmed that the Complainant had not physically assaulted her but she thought that the situation was escalating and did not want him in the

apartment any more and so she called 911.

151. Exhibits 51 and 52 (audio clips from June 26, 2018 that the Member made during arguments with the Complainant that day) were played and the Member confirmed that she made the recordings. She recorded the conversation with her qualitative interview recorder on her desk. She decided to record the conversation because things were escalating and she thought that no one would believe her. The Member was asked how she received the recordings of the 911 calls<sup>63</sup> and she said that she filed a freedom of information request after she arrived in Halifax.

152. The Member said that she called the College just before she called the police as she wanted to give the College “the heads up” that someone might be calling them “giving false accusations”. The Member reported feeling significantly distressed and hysterical. She stated that when she reviewed the document written by the College regarding their conversation,<sup>64</sup> she was exhausted and running on adrenaline. In chief, the Member said that she could not process the memo and did not feel that it was accurate.

153. The Member reported that she was escorted by the police to a hotel, taking her cats, a change of clothes, and her iMac desktop. The client files were still in the apartment. The next day, her parents flew in from Winnipeg and they started packing things and moving things to a storage locker in Oakville. The client files were taken to the storage locker. She never went back to stay at the apartment. On June 29, 2018, she stayed at a hotel with her parents and on July 1, 2018 left Hamilton to go to Winnipeg.

### **The Member’s dissatisfaction with employment at The Bridge and eventual resignation**

154. Mr. Bowick testified that over time, the Member’s employment relationship at The Bridge became complicated. In late December 2016, the Member came to him and asked to work 4 of her 16 hours at home. One of the problems was that clients were having a hard time finding time to see her. When they would try to see her, she was not there. Therefore, Mr. Bowick denied her request. The Member became very upset. She yelled at him. She said she felt unappreciated. She became cold and angry. He described himself as “walking on eggshells” from thereon in.

155. He confirmed that the email exchange between himself, the Member and other members of The Bridge (and Board Chair) in late January 2017<sup>65</sup> was indicative of how the Member would communicate with him.

156. Mr. Bowick testified that this email exchange frustrated and hurt him. Mr. Bowick believed that the Member did not want a boss and that she did not respect him. He agreed that she should be paid more but that this was simply not financially feasible. He noted that the Member actually earned more than he did, and he was the Executive Director.

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<sup>63</sup> Exhibits 54 and 55.

<sup>64</sup> Exhibit 3, Tab A

<sup>65</sup> Exhibit 29.

157. Ms. Mason became involved with The Bridge in early 2017 during the time that the Member worked there. She is self-employed as a workplace licensed investigator and a mediator and has been a member of the Human Rights Tribunal of Ontario since March 2019. She has recognized credentials as an alternative dispute resolution officer.

158. It was Ms. Mason's evidence that she was asked to help mediate a staff issue between the Member and Mr. Bowick due to her experience in dealing with such issues. She stated that The Member had made a harassment complaint against Mr. Bowick. Ms. Mason conducted the mediation, but it was not successful. She recalled the Member becoming very angry during the mediation.

159. Ms. Mason stated that following the mediation, the Member filed a formal complaint against Mr. Bowick. Ms. Mason was peripherally involved in this investigation. She was impartial to both Mr. Bowick and the Member. She recalled that the allegations had not been proven. Ms. Mason stated that the Member subsequently alerted the Ministry of Labour about her complaint. She stated that the inspector with the Ministry upheld the decision made by The Bridge and no harassment was made out.

160. Ms. Mason stated that she was provided with an overview of the services the Member provided when she first joined The Bridge. She understood that the Member's role was to act as a reintegration manager and OT. The Member would meet with clients, identify goals, set plans, provide counselling support and help them not to re-offend.

161. Ms. Mason conceded that the Member is a very passionate OT and had a good rapport with the residents and clients at The Bridge. She stated, however, that the Member struggled as an employee. Ms. Mason explained that Mr. Bowick was the Member's supervisor. Since Mr. Bowick was neither a social worker nor an OT, the Member felt that she should not be taking direction from Mr. Bowick. Ms. Mason stated that the Member would become angry with staff when they disagreed with her or did not follow her ideas.

162. The Board tried to become involved. However, things did not improve, as the Member proceeded to file a complaint against Mr. Bowick in May 2017.

163. The Member entitled her complaint, dated May 5, 2017, "Statement of Psychological Abuse."<sup>66</sup> She began her complaint as follows:

The primary objectives of this letter is to provide a statement complete with examples that support how I, [the Member], have been experiencing psychological abuse by James Bowick, Executive Director at The Bridge that has resulted in a psychologically unsafe workplace for myself, my colleagues and volunteers. The following letter was difficult for me to write as it forced me to re-live my memories of feeling disrespected, taken advantage of, manipulated and unfairly judged.<sup>67</sup>

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<sup>66</sup> Exhibit 30

<sup>67</sup> Exhibit 30, p. 931.

164. The Member proceeded to provide a definition of psychological abuse and then addressed each component under separate headings, including one that read, “Discounting the view of others through ridicule or trivialization”.

165. In the document, the Member indicated that she tried to clarify roles and responsibilities amongst the senior team but was dismissed. Mr. Bowick told the Panel that he recalled this discussion and that the Member asked for more structure. He conceded that he tried to keep a more casual atmosphere at The Bridge to allow people to find their talents. Looking back, he believes he should have done more to help her out.

166. The Member created a goal sharing sheet that would respect her confidentiality obligations. He recalled situations where employees of The Bridge could not find information about clients as the Member had it in her file. He explained to the Member that information such as housing needed to be available to all and could not be retained by her alone. He mentioned that this never seemed to be an issue with the previous OTs.

167. In the document, the Member states that she “was expected to meet with [13 men] weekly,” yet she only had 14 office hours per week.<sup>68</sup> Mr. Bowick said in-chief that she was expected to meet with six clients per week as The Bridge only had a maximum of six residents at a time. Therefore, her allotted time was more than enough. In fairness to The Member, he stated that she also ideally would meet with non-resident clients. But the only mandatory requirement was to meet with the residents. When asked during cross-examination if he thought she was spending too much time with record keeping, he said no. However, he proceeded to state the following:

I was surprised how much time she was putting into that. It was more that she seemed to be claiming that she was doing extensive research and getting involved in other things. I did not have a clear idea of her process. I am not an OT. I don’t think she was forthcoming in explaining it. She was just asking me to take it on faith all that she said. And as a supervisor I had no input. I would have liked to have streamlined her process a bit. Many of the clients she saw would be every couple of weeks, it did not seem to add up. Maybe I am wrong. And I did try to discuss it with her. Documentation takes the time it takes.

168. In the document, the Member said that she felt humiliated and continuously challenged by Mr. Bowick: “After a year of feeling manipulated, judged and taken advantage of, my capacity to regulate my emotions when in direct communication with him is diminished.”<sup>69</sup> During his direct examination, Mr. Bowick had no idea where these comments were coming from.

169. In the document, the Member described a situation where client information was accessed from her files without authorization. She claimed that she anonymously called the College and was advised that she was following procedures correctly. In chief, Mr. Bowick queried if this was about the time he was dealing with a client who urgently needed a housing

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<sup>68</sup> Exhibit 30, p. 932.

<sup>69</sup> Exhibit 30, p. 933.

form that the Member may have retained in her files. It was late in the evening. Mr. Bowick texted her to get permission to access the document. He did not hear back from her. As a result, he went in to get the form from the client file. It was not there. Mr. Bowick conceded to the Panel that he is not comfortable in how he handled that situation. Mr. Bowick agreed that it may have been sometime after this situation that she brought the client files home with her.

170. In the document, the Member stated that she became aware that the information provided to the residents was not accurate. She said that the “omission of occupational therapy from the welcome package provided me with some insight as to why it is often difficult to get in touch with new residents when they first move as they may not even be aware that it is expected of them to meet with me.”<sup>70</sup> Mr. Bowick testified that this was a fair comment and they proceeded to clean up the forms.

171. Mr. Bowick told the Panel that when he read the complaint, he felt like he was “stabbed in the gut.” He said it was “painful to read.” Mr. Bowick believed that the Member was wrong on certain matters. He also felt that she misinterpreted some of his actions and words. He knew that he always meant well. But he could see that some things that he had done had hurt her. And he felt horrible. Mr. Bowick said he never wanted to abuse anyone and always wanted her to succeed.

172. An investigation proceeded. By July 15, 2017, it was determined that Mr. Bowick did not harass the Member. In her report, Jo Ann Carrothers, who was Chair of The Bridge’s Board at the time, noted that “many of [the Member’s] comments suggest she does not understand that James has the responsibility and authority to make decisions and relay his decisions to staff members.”<sup>71</sup> Ms. Carrothers also noted that some of the Member’s claims were inaccurate. Certain remedial steps were recommended. Although the Member was immediately advised verbally of the determination, she was not advised in writing. This was rectified on October 2, 2017.<sup>72</sup>

173. On July 28, 2017, the Member proceeded to file a complaint with the Ministry of Labour alleging that The Bridge contravened the *Employment Standards Act*.

174. During his examination-in-chief, Mr. Bowick was taken through the decision of the Employment Standards Officer dated March 14, 2018.<sup>73</sup> Mr. Bowick had no recollection of asking the Member to help a member of his church group or to edit an article he was writing. He did recall telling her how much they all appreciated the work that she was doing. He recalled that the Member would express concerns with the amount of time she was allotted to do her duties. He said that they would talk about her workload. Mr. Bowick was concerned that she was, voluntarily, taking on a lot of work that was not part of her job duties and that this was resulting in her lack of time to do her core duties.

175. The Member left The Bridge in October 2017. Mr. Bowick said that the organization’s

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<sup>70</sup> Exhibit 30, p. 935.

<sup>71</sup> Exhibit 35.

<sup>72</sup> Exhibit 38.

<sup>73</sup> Exhibit 31.

relationship with her was in ruins.

176. Ms. Mason recalled that the Member resigned from The Bridge in October 2017. She stated that the Member was provided with a letter from The Bridge setting out their expectations of her resignation.

177. Ms. Mason stated that during the early portion of her time at The Bridge, the Member would approach her with concerns. However, she stated that the employment relationship broke down as time passed. She stated that she is sorry that the relationship broke down, but she did not take anything personally and does not hold a grudge or animus against the Member.

178. Ms. Mason recalled that the Complainant reached out to her in the summer of 2018 to talk about concerns he had with the Member. Although Ms. Mason was not permitted to relay details about the discussion she had with the Complainant, she stated that the discussion was very concerning. She felt that the Board had let the Complainant down. She stated that after this discussion, she was concerned with the Complainant's financial situation and was worried that he would become addicted again.

179. Ms. Mason confirmed that at no point in time during the Member's employment was she made aware of a personal relationship between the Member and the Complainant.

180. In cross-examination, Ms. Mason stated that the Member tended to take on non-occupational therapy matters, which would increase her caseload. Ms. Mason explained that the Member was not managing her case load. Ms. Mason confirmed that she had done a breakdown of the Member's hours and found that the time she allocated to documentation was far in excess of what would be recommended. The Bridge only had a certain budget and could only pay her 16 hours per week.

181. Ms. Mason conceded that she is not an OT, but she explained that the Member would discuss client concerns at the weekly staff meetings. To Ms. Mason's understanding, residents were required to meet with the Member weekly.

182. Ms. Mason described The Bridge as a small and very relaxed organization, with limited human resources policies.

183. Regarding the letter to the Chair of the Board at The Bridge dated May 5, 2017 entitled, "Statement of Psychological Abuse",<sup>74</sup> the Member testified that she wrote this letter because the Chair of the Board asked her for a letter about her complaints that she had previously voiced to her. The Member said that she was feeling unsafe, undervalued, and wasn't being heard. She felt that she had an overabundance of work that she could not complete and that there was an expectation that she complete 10-15 hours per week of unpaid work and that issues that she had around client files and client confidentiality related to those files were not taken seriously. By writing the letter she wanted to have a conversation and make things more amenable as she sometimes felt like she was caught in the middle of the Board and Mr. Bowick. She did not want

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<sup>74</sup> Exhibit 30.

Mr. Bowick to be fired and so wrote another letter to that effect.<sup>75</sup>

184. The Board Chair investigated the situation and noted in her report<sup>76</sup> that both the Member and Mr. Bowick indicated a high level of conflict in the relationship. It was noted that the Member was not co-operative during the interview which did not allow the investigator to obtain further information about her allegations. During examination in-chief, the Member testified that she did feel that she cooperated with the investigation. It was also noted in the report that some of the Member's claims regarding not being provided with information to be inaccurate. It was noted that many conversations between the Member and Mr. Bowick "became heated and unprofessional on the part of both parties". The investigation found that workplace harassment did not take place but also found that there was "significant conflict in the workplace leading to a toxic work environment". During her testimony in-chief, the Member reported that she had not been told that.

185. The Member testified that at the end of June 2018, after the breakup with the Complainant, her client files which were in a "travelling filing cabinet" with a padlock were put into a moving truck with everything else to go to the storage locker. She testified that the charts remained in Oakville throughout the summer. On August 29, 2018, the file boxes were placed at the back of the trailer and remained in the trailer overnight. On August 30, they were given to her lawyer.

186. The Member confirmed that she was provided with a termination letter from the Bridge on October 13, 2017. The letter asked her to provide The Bridge with the password to her work email account. In cross-examination, she confirmed that she still has this password and did access the account to obtain documents after her departure from The Bridge and the resolution of the Ministry of Labour matter. The letter also requested that she return the client files to The Bridge once a health information custodian (HIC) was identified. The Member testified in chief that she intended to transfer the client files to The Bridge once she was notified of the HIC, however she was never told of an appointment of an HIC.

187. Despite all of the above, Mr. Bowick testified that he had or has no animus or grudge against the Member. He admitted that feelings became complex, but he was so excited when she joined the team. He kept thinking that he could fix the relationship. He said that he is very sad about this whole situation as she is such a skilled OT and so good with clients.

### **The Member's communications with the College**

188. Under cross-examination, the Member was questioned about her communications with the College. The Member was asked about Exhibit 3, Tab A, the memo regarding her telephone contact with the Member written by Aoife Coghlan of the College dated June 29, 2018 and July 3, 2018, and in particular the sentence in the memo, "The Member told me she has been in a relationship with a person she provided occupational therapy services to."<sup>77</sup> She said, "I never

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<sup>75</sup> Exhibit 44.

<sup>76</sup> Exhibit 35.

<sup>77</sup> Exhibit 3, Tab A, p. 97.

said that”. When asked about the sentence, “Prior to commencing a personal relationship with this person, [the Member] advised me that she terminated the therapeutic relationship and documented the termination of the client/therapist relationship”,<sup>78</sup> the Member said, “I don’t remember saying those words”. When asked about the sentence in which Ms. Coghlan stated, “When I mentioned the term ‘sexual abuse’, the Member indicated that her relationship with this person was a consensual, mature relationship”,<sup>79</sup> The Member stated “I believed that it was [a consensual, mature relationship] at the time”.

### **Loss of Agency**

189. Dr. Lori Haskell is a registered clinical psychologist in Toronto, Ontario. Her current clinical practice mainly consists of clients with psychological trauma.

190. Dr. Haskell was qualified at the hearing to provide expert evidence on the effects and impact of sexual victimization and trauma, and the neurobiology of trauma. Dr. Haskell was hired by the Member to provide evidence in relation to this proceeding. Dr. Haskell interviewed the Member via telephone on November 8, 2019 and January 6, 13, and 22, 2020.

191. Dr. Haskell testified that prior to writing her report, she was only provided with the Complainant’s complaint, the Member’s response to the complaint from September 2018, and the Member’s response to the investigation report from April 2019. The panel asked if Dr. Haskell’s report could be made an exhibit. College counsel consented on the condition that the panel conceded that certain portions of the report were not explored during cross-examination. As such, the Panel’s use of the report was restricted.

192. During her testimony, Dr. Haskell first discussed the neurobiology of trauma. She discussed that the pre-frontal cortex, the part of the brain that is used for executive functioning, can go “offline” when it is flooded with stress. Consequently, individuals are less likely to make intentional, careful decisions and cannot account for what they did or did not do. Dr. Haskell testified that individuals can be in this highly stressed state (or the pre-frontal cortex can remain “offline”) for up to 96 hours. She explained further that there is no one “usual” response to sexual assault and people’s responses vary widely, depending on multiple factors. She also discussed multiple myths and stereotypes about reactions following sexual assault.

193. Dr. Haskell testified that she administered the Trauma Symptom Inventory (“TSI”) test to the Member on January 6, 2020. The TSI is a 100-item self-report measure of stress and other psychological symptoms that relate to posttraumatic stress disorder (or “PTSD”). Respondents are asked to self-rate how often each symptom has happened to them in the past six months. While the TSI is typically self-administered, Dr. Haskell herself administered the test to the Member orally over the telephone. According to Dr. Haskell’s testimony, the Member’s responses were found to be valid. The Member reportedly presented with PTSD and had significant scores on the depression, the sexual concerns, the self-reference, and dissociation scales. Dr. Haskell explained that her results suggest that the Member does not have a strong sense of self. According to Dr. Haskell, the impaired self-reference scale is typically related to early childhood experiences.

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<sup>78</sup> Exhibit 3, Tab A, p. 97.

<sup>79</sup> Exhibit 3, Tab A, p. 97.

During her interview with Dr. Haskell, the Member reportedly told her that she had critical parents who had high expectations of her.

194. Dr. Haskell testified that the Member described a toxic environment at The Bridge, highlighting that she was not provided with supervision or much training, that the environment was chaotic and disorganized, she did not feel that she was well supported by Ms. Bowick, she felt unsafe, and that there were sexualized comments targeted at her, such as the one by a male resident who told her that she would have to “watch out” had he been younger.

195. The Member described the November 15, 2016 Kiss to Dr. Haskell as a sexual assault. Dr. Haskell testified that she was told that as the Member left the café on that day, she bent down to unlock her bike and while her head was down to unlock her bike, as he looked up, “he jammed his tongue in my mouth and groped me. I stood frozen.” Dr. Haskell testified that subsequently the Member felt confused and ashamed. She did not report it right away and tried to figure out if she were to blame and how did this happen. Dr. Haskell assumed all of this occurred and is true, concluding that the Member was confused by the assault and disorganized in her response. Dr. Haskell further opined that the Member was already in a work environment where she was feeling stressed and not safe, and therefore her brain was already “primed” for a faster response of disorganization.

196. Dr. Haskell testified that the length of time a sexual assault victim can experience the impact depends on that person’s history and individual neurobiology. Dr. Haskell was asked about the reason, in her opinion and based on her assessment of the Member, that the Member entered into the relationship with the Complainant. Dr. Haskell responded that the Member entered into a personal relationship with the Complainant due to her impaired self-reference and dissociation. Dr. Haskell testified that the Member told her that it made her feel like she was not a victim; it made her feel that the experience was ok because she was able to shift belief that maybe this was something positive or romantic.

197. When asked why the Member did not label the November 15, 2016 Kiss as sexual assault prior to April 2019, Dr. Haskell testified that the process of labelling unwanted sexual experiences involves integrating consciously one’s experience, and that it was the Member’s lack of integration and lack of sense of self affecting her ability to label the incident as sexual assault.

198. Dr. Haskell testified that the Member informed her that she was too frightened of the Complainant to interact with him in Halifax.

199. Under cross-examination, Dr. Haskell was asked how her opinion would change if the Complainant was the Member’s client. Dr. Haskell responded that she would have to understand the dynamics around the Member’s influence and power in terms of her relationship; with the Complainant. She provided an example from her practice of psychology, and how it would be inappropriate to have a relationship with a client because she has involved conversations with her clients about their lives and knows intimate information about them.

200. The Member’s counsel maintained in the closing submission that the Member did not have meetings with the Complainant as a client in which intimate information were shared by

him, however, the Complainant did testify that as early as August 2016 he was disclosing to the Member during the weekly OT sessions intimate details about his life, such as information about his prior marriage, fertility difficulties, and how he felt about his ex-wife's education and profession.

201. During cross-examination, College counsel pointed to the Member's written response to the College from September 2018, in which the Member stated that the "kiss sparked an attraction ... towards [the Complainant]" and Dr. Haskell agreed that the Member's statement occurred two years later, not 96 hours after the incident outside of Café Augusta.

202. The College asserted that if the Kiss constituted a sexual assault then, according to Dr. Haskell, the trauma to her brain may have prevented her from making a statement for 96 hours after the event. Yet, she did not advise the College that this was a sexual assault until almost two years later and did not advise the police that the Kiss was a sexual assault until April 2019.

203. Dr. Haskell agreed that she was not present during the incident in front of Café Augusta and hence she cannot determine with certainty whether the Kiss was a consensual kiss or sexual assault. Dr. Haskell further testified that consensual kisses would not amount to sexual assault.

204. Dr. Haskell conceded that if the Member consciously provided false or misleading information during her interview with her that this would impact her expert opinion. Specifically, her conclusion on the power dynamics between the Member and the Complainant would be impacted. She explained that in that case the Member would have had more influence over the Complainant because she would have had access to his "internal world" if he was her client.

205. Dr. Haskell confirmed that, other than the information contained in the Complainant's initial complaint, her opinion was based on information provided by the Member only.

206. Dr. Haskell conceded that she did not know that the Member had commenced a small claims court action against the Complainant and that the in-person hearing had occurred in January 2020, around the same time that Dr. Haskell's assessed the Member. Dr. Haskell had previously testified that the Member advised her that she was scared of interacting with the Complainant while in Halifax.

207. College counsel questioned whether the Member could have experienced the PTSD symptoms as described in Dr. Haskell's findings for having a complaint filed against her for sexually abusing a client and/or for being subject to allegations of professional misconduct. Dr. Haskell agreed that these proceedings could be considered a traumatic event. However, in re-direct examination, Dr. Haskell stated that the College proceedings alone could not explain the findings from the TSI. She also testified that although the TSI was administered in January 2020, it required the Member to rate how often she experienced each symptom in the prior six months.

208. Dr. Haskell conceded that she only interviewed the Member. She did not interview the complainant or anyone from The Bridge.

209. When asked by College counsel why she accepted the Member's opinion that she was not the Complainant's OT even though she would have read that in his complaint, Dr. Haskell responded that she was not retained to provide an expert opinion on whether or not the Complainant was a client of the Member. Dr. Haskell maintained that this was to be determined by the Panel.

#### IV. Decision

210. Having considered the evidence and the onus and standard of proof, the Panel makes the findings that the Member:

1. Provided OT services to the Complainant from in or about August 2016 to in or about early February 2017;
2. On one or more occasions from mid-November 2016 to in or about June 2018, including at times when he was her client, engaged in sexual intercourse and other physical sexual relations with the Complainant;
3. Sent emails of a sexual nature to the Complainant while he was her client; and
4. Lived with the Complainant from February 2017 to June 2018

211. The Panel concluded that the findings set out in items one through three of the preceding paragraph constituted sexual abuse of a client, pursuant to clause 51(1)(b.1) of the Code.

212. The Panel also found that the Member engaged in disgraceful, dishonourable and unprofessional conduct, pursuant to clause 51(1)(c) of the Code and paragraph 48 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

213. The Panel further found that the Member engaged in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist, pursuant to clause 51(1)(c) of the Code and paragraph 49 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

214. In the absence of expert evidence establishing the standard of practice, the Panel did not find that the Member contravened, by act or omission, a standard of practice of the profession or failed to maintain the standard or practice of the profession pursuant to clause 51(1)(c) of the Code and paragraph 1 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

#### V. Reasons

##### **Burden and standard of proof**

215. The College bears the onus of proving the allegations in accordance with the standard of proof which is proof on a balance of probabilities. "Is it more likely than not?" is an appropriate

question to ask when determining whether this standard has been met. The Supreme Court of Canada has held that to satisfy the requirement of proof on a balance of probabilities, evidence must always be sufficiently clear, convincing and cogent.

### **The Rule in *Browne v. Dunn***

216. Counsel for the College submitted that there were four breaches of what is referred to as the “rule in *Browne v. Dunn*”,<sup>80</sup> and that as a result, it would be improper for the Panel to put any weight on certain evidence, and further, that, the Panel should not draw any conclusions about the Complainant’s or Mr. Bowick’s credibility based on the above-noted assertions. The impugned items of evidence and the College’s position in relation to them are as follows:

- a. The resources entered as Exhibit 46<sup>81</sup> and Exhibit 47<sup>82</sup> were never put to Mr. Bowick to confirm that they were available in the common area at The Bridge. Therefore, the Panel should place no weight on these exhibits or the Member’s evidence about them.
- b. The Member’s assertion that the article that Mr. Bowick allegedly asked her to review was about male privilege was never put to Mr. Bowick. Therefore, the Panel should place no weight on the Member’s evidence.
- c. The Member’s assertion that Mr. Bowick and Mr. Schuurman told her that the Complainant was returning to school before Thanksgiving was never put to Mr. Bowick or the Complainant. Therefore, the Panel should place no weight on the Member’s evidence.
- d. The Member’s claim that all of the men left the gala dinner except the Complainant was never put to the Complainant. Therefore, the Panel should place no weight on the Member’s evidence.

217. In her closing submissions, the Member’s counsel did not address the College’s position about the rule in *Browne v. Dunn*. However, in their advice to the Panel, ILC advised that this rule is rooted in the following three considerations:

- a. Fairness to the witness whose credibility is attacked. (The witness is alerted that the cross-examiner intends to impeach his or her evidence and given a chance to explain why the contradictory evidence, or any inferences to be drawn from it, should not be accepted.);
- b. Fairness to the party whose witness is impeached. (The party calling the witness has notice of the precise aspects of that witness’s testimony that are being contested so that the party can decide whether or what confirmatory evidence to

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<sup>80</sup> (1893), 6 R 67 (UK HL) at 70.

<sup>81</sup> Exhibit 46 was the City of Hamilton’s 2016 Food Access Guide.

<sup>82</sup> Exhibit 47 was the Hamilton Housing Help Centre’s Emergency Food Pamphlet.

call); and

- c. Fairness to the trier of fact (in this case, the Panel). (Without the rule, the Panel would be deprived of information that might show the credibility impeachment to be unfounded and thus compromise the accuracy of the Panel's decision).<sup>83</sup>

218. However, ILC further advised us that as a rule of fairness, the rule in *Browne v. Dunn* is not a fixed rule. Compliance with it does not require that every scrap of evidence on which a party desires to contradict the witness called by the opposite party be put to that witness in cross-examination. Instead, the cross-examination should confront the witness with matters of *substance* on which the party seeks to impeach the witness's credibility and on which the witness has not had an opportunity of giving an explanation because there has been no suggestion whatever that the witness's story is not accepted. It is only the nature of the proposed contradictory evidence and its significant aspects that need to be put to the witness.<sup>84</sup>

219. ILC advised the Panel that it is incumbent upon the Panel to assess the significance of the areas that were not put to the College's witnesses in cross-examination in order to determine whether it is appropriate to apply the rule in *Browne v. Dunn* as the College has submitted the Panel should. We were advised to ask ourselves, for example, whether the Member's counsel's failure to cross-examine the Complainant about Exhibits 46 (the City of Hamilton's 2016 Food Access Guide) and 47 (Hamilton Housing Help Centre's Emergency Food Pamphlet) are of significance in assessing the Member's credibility.

220. Ultimately, the Panel did not accept the College's submission that it should apply the rule in *Browne v. Dunn* to diminish the weight given to the aspects of the Member's evidence that are itemized above in paragraph 216, above. In the panels view, those aspects of the evidence were not sufficiently significant to attract application of the rule. The fact that they were not put to college witnesses was inconsequential.

### **Credibility**

221. The fundamental question for us to determine was whether, on the basis of the evidence that we accepted, the College has proven the allegations set out in the Notice of Hearing on a balance of probabilities.

222. In assessing credibility, the Panel applied the advice given by ILC, namely that when assessing the evidence, the Panel should use the same common sense that you use every day in deciding whether people know what they are talking about and whether they are telling the truth. ILC advised us that there is no magic formula for deciding how much or how little to accept of a witness' testimony or how much to rely on it in deciding this case, but referred to a few questions that judges suggest be kept in mind when assessing the credibility of witnesses.<sup>85</sup>

<sup>83</sup> *R. v. Quansah*, 2015 ONCA 237, at para. 77.

<sup>84</sup> *R. v. Quansah*, 2015 ONCA 237, at paras. 80-81, 85.

<sup>85</sup> Those questions were as follows:

1. Did the witness seem honest? Is there any reason why the witness would not be telling the truth?

223. ILC also advised us to take into account the exhibits, and how they may reflect on the witnesses' credibility. It was up to us to decide how much or little to rely on the exhibits, as well as the testimony and any agreed-upon facts admissions, to help us decide this case. We were reminded that how much or little we rely on the evidence of the witness does not necessarily depend on the number of witnesses who testify, one way or another, and that we must consider all the evidence. Further, we may decide that the testimony of fewer witnesses is more reliable than the evidence of a larger number. It is up to us to decide.

224. The Panel also accepted ILC's advice that it should not rely on the Nova Scotia Small Claims Court judge's credibility assessments<sup>86</sup> instead of conducting our own. ILC advised us that the Ontario Court of Appeal has repeatedly held that previous credibility findings are "no more than an opinion on the credibility of unrelated testimony given by [the] witness in the context of another case."<sup>87</sup>

225. It should be noted that Member's counsel contended that each of the College's witnesses were biased against the Member. With the exception of the Complainant, the Panel did not find that any of the College's witnesses bore any animus against the Member.

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2. Did the witness have an interest in the outcome of the case, or any reason to give evidence that is more favourable to one side than to the other?
  3. Did the witness seem able to make accurate and complete observations about the event? Did he or she have a good opportunity to make those observations? What were the circumstances in which those observations were made? What was the condition of the witness at that time? Was the event observed or witnessed unusual or routine?
  4. Did the witness seem to have a good memory? Does the witness have any reason to remember the things about which he or she testified?
  5. Did any inability or difficulty that the witness had in remembering events seem genuine, or did it seem made up as an excuse to avoid answering questions?
  6. Did the witness seem to be reporting to you what he or she saw or heard, or simply putting together an account based on information obtained from other sources – i.e., what he or she may have heard from other witnesses – rather than personal observations?
  7. Did the witness' testimony seem reasonable and consistent as he or she gave it? Is it similar to or different from what other witnesses said about the same events? Did the witness say or do something different on an earlier occasion?
  8. Do any inconsistencies in the witness' evidence make the main points of the testimony more or less believable and reliable? Is the inconsistency about something important, or a minor detail? Does it seem like an honest mistake? Is it a deliberate lie? Is the inconsistency because the witness said something different, or because he or she failed to mention something? Is there any explanation for it? Does the explanation make sense?
  9. What was the witness' manner when he or she testified? How did he or she appear to you? Do not jump to conclusions, however, based entirely on how a witness has testified. Looks can be deceiving. Giving evidence in a trial is not a common experience for many witnesses. People react and appear differently. Witnesses come from different backgrounds. They have different abilities, values and life experiences. There are simply too many variables to make the manner in which a witness testifies the only or most important factor in your decision.

<sup>86</sup> Exhibit 15. The judge found the Complainant's credibility to be lacking and found that the Member's Evidence should be preferred over that of the Complainant where ever there was conflict: paras. 6-10.

<sup>87</sup> *R. v. Ghorvei*, 1999 CanLII 19941 (ON CA), at para. 31; quoted in *Bruff-Murphy v. Gunawardena*, 2017 ONCA 502, at para. 31.

### **James Bowick**

226. College counsel submitted that Mr. Bowick was an honest and reliable witness, describing him as forthright and pointing out that he conceded lapses in memory. In College counsel's submission, Mr. Bowick was "clearly not biased against [the Member]" and "has no interest in the outcome of this matter and was actually saddened that the hearing was occurring."

227. The Panel found Mr. Bowick to be knowledgeable and informative regarding operational and procedure issues regarding The Bridge. He had a good opportunity to make observations and was reasonable and consistent in his testimony. Mr. Bowick seemed honest, acknowledging his shortcomings when it came to his interactions with the Member. He had a good recollection of events, reporting what he saw and heard and stating when he could not remember some details of some events. His testimony had internal and external consistency. There did not appear to be any reason why the witness would not be telling the truth. The Panel found this witness to be credible.

### **Karen Mason**

228. College counsel submitted that Ms. Mason's experience as a member of the Board should influence the weight that should be attached to her opinions and impressions of the Complainant and the expectations of The Bridge on OT attendance. College counsel further submitted that "Ms. Mason clearly has no interest in the outcome of this matter or has any bias towards [the Member]" and that she has been "involved in not-for-profit organizations for a long time and can separate the professional from the personal."<sup>88</sup>

229. In commenting on Ms. Mason's evidence, the Member's counsel stated that "[a]lthough Ms. Mason in her testimony tried to distance herself from the investigation that followed, the actual internal memo from The Bridge reflects that she *did* participate (despite the fact that she had mediated the same issues – which is an ethical breach). It is no wonder that [the Member] did not perceive Ms. Mason as an ally."<sup>89</sup>

230. The Member's counsel disputed the College's contention that Ms. Mason has no bias against the Member, stating that the College's submission is "belied by the evidence" and pointing out that Ms. Mason complained about the Member and accused her of unethical conduct to (1) her professors at McMaster University; (2) her research ethics board; and (3) to the College in the course of the Registrar's Investigation.<sup>90</sup>

231. The Panel found Ms. Mason to be credible. She seemed able to make accurate and complete observations about events and discussions. Ms. Mason was calm and her testimony was reasonable and consistent. She had opportunity to interact with the Member and hear details of the workplace environment, through her involvement on the Board and in the mediation process to attempt to resolve the conflicts between Mr. Bowick and the Member. The Member pointed

<sup>88</sup> Colleges Closing Submissions, para. 245.

<sup>89</sup> Member's Closing Submissions, para. 310 (emphasis in original).

<sup>90</sup> Member's Closing Submissions, para. 30, referring to Exhibit 37, Exhibit 45 and Exhibit 48, p. 1.

out that Ms. Mason and Mr. Bowick are not regulated health professionals, which is correct, but that has no bearing on their credibility and their ability to testify in honest and trustworthy manner.

### **Mary Bik**

232. College counsel submitted that although Ms. Bik initially had some difficulty in remembering when the Member lived in her home, she was able to orient herself quite quickly. She was able to recall the two men that the Member brought to her home, one of whom appeared to be the Complainant. College counsel further submitted that Ms. Bik has no interest in the outcome of this matter, and that despite the fact that she asked the Member to move out, she liked her.<sup>91</sup>

233. The Member's counsel submitted that "Ms. Bik was clearly confused about the dates that [the Member] lived at her house and was a poor and unreliable witness in that regard, to the point that College counsel tried to refresh her recollection with a prior inconsistent statement."<sup>92</sup> When College counsel told Ms. Bik (as stipulated) that [the Member] had lived with her from September 2015 until the end of December 2016, Ms. Bik continued to insist that the Member had lived with her until February 2017 (which is clearly wrong). The Member's further submitted that she did not cross-examine Ms. Bik "because she had little if any material evidence."<sup>93</sup>

234. The Panel found Ms. Bik to be a credible witness. Although she did have obvious difficulty recalling the exact dates that the Member had lived at her home, the Panel did not feel that this affected her objectivity and honesty. The Member's counsel submitted that "Ms. Bik was clearly confused" about the dates when the Member lived at her house and thus was a "poor and unreliable witness in that regard." With multiple residents at two premises and testifying about events that occurred almost 4 years earlier, the level at which Ms. Bik was able to remember the dates is understandable (i.e., within two months). The Member's counsel also suggested that Ms. Bik's assertions that the Complainant was at the Member's apartment between 20 and 30 nights "are not credible". Twenty nights between November 17, 2016 and when the Member and the Complainant left for Winnipeg in December does seem feasible, especially in light of the fact that there is no record of when the Complainant returned to The Bridge after each visit. Ms. Bik did not appear to have an interest in the outcome of the case or any reason to give evidence that is more favourable to one side than to the other. For these reasons, the Panel accepted the evidence provided by Ms. Bik, except for the tenancy dates.

### **The Complainant**

235. College counsel submitted the Complainant is angry at – but not biased against – the Member. This alone, it was submitted, does not erode his credibility or create an overriding biased against the Member. College counsel submitted that the Complainant did not embellish on his version of events, and that he readily conceded the Member's strengths as an OT and the

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<sup>91</sup> Colleges Closing Submissions, para. 247.

<sup>92</sup> Member's Closing Submissions, para. 245.

<sup>93</sup> Member's Closing Submissions, para. 247.

positive impact she had on his life.

236. College counsel further argued that the Complainant's story "makes sense". There is no doubt that a sexual relationship existed between the Member and the Complainant; in fact the Member has conceded that it occurred. Consequently, the Panel needs to determine if the Complainant's version of the events makes sense. It was submitted on behalf of the College that the Complainant's version does make sense. The Complainant's evidence that he attend weekly OT sessions with the Member because this was a requirement of residency at The Bridge was confirmed by the evidence of both Mr. Bowick and Ms. Mason, as well as the Member's job description<sup>94</sup> and the spreadsheet detailing client interactions at The Bridge.<sup>95</sup> Counsel for the College submitted that even the Member in her statement of psychological abuse and through her testimony confirmed that fact. College counsel also submitted that the Complainant was reliant on the Member for access to food and essential services, as he was unfamiliar with Hamilton and had no friends or family there. Other aspects of the Complainant's testimony made sense, too, in that he would not have known what a "boundary violation" was, but testified that at one point, the Member said she could not go on a bicycle ride with him because she could get in to trouble for a boundary violation. The Complainant's evidence about going for a coffee with the Member made sense, too, in that the Member confirmed that she would regularly meet with clients for coffee.

237. It was also College counsel's submission that the Complainant's evidence that he and the Member went out on a date approximately two days after the November 15, 2016 Kiss made sense in the context of other evidence. On the Complainant's evidence, this date (at a blues bar) ended when the Member invited the Complainant back to her room, where they had sex.

238. The Complainant's testimony that the relationship was kept secret from others at The Bridge also makes sense, in light of the policy at The Bridge against personal relationships between staff and residents.

239. Importantly, it was College counsel's submission that the Complainant's testimony that his OT sessions did not cease October, 2016 and continued throughout the time he was a resident at The Bridge (i.e., until the end of January, 2017) also made sense. The Complainant was still a resident at The Bridge until the latter date. Moreover, the Complainant's evidence that he continued to receive OT services until the end of January, 2017 is confirmed by the spreadsheet.<sup>96</sup> Similarly, the Complainant's testimony that OT was essential to achievement of his goals makes sense in the context of other evidence in case.

240. College counsel submitted that key aspects of the Complainant's evidence were confirmed by the Member or evidence that emanated from her. For example, the Member admitted in her statement of psychological abuse that residents were required to meet with her weekly. The Member admitted to the College in 2018 that the Complainant was her client and that she provided OT services to him. The February 9, 2017 letter that the Member sent to the Complainant explicitly referred to the OT services she provided him from August 2016

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<sup>94</sup> Exhibit 2, Tab 1.

<sup>95</sup> Exhibit 2, Tab 2.

<sup>96</sup> Exhibit 2, Tab 2

onwards.<sup>97</sup> Furthermore, the Member's credit card statement confirms that she attended Café Augusta and The Ship on November 15, 2016, confirming the Complainant's version of events.<sup>98</sup>

241. College counsel further submitted that the Complainant's evidence is internally consistent and cautioned against using the Nova Scotia small claims court decision<sup>99</sup> in the assessment of the Complainant's credibility.

242. College counsel invited the Panel to accept the Complainant's evidence in its entirety.

243. The Member's counsel characterized the College's characterization of the Complainant as "angry at – but not biased against – [the Complainant]" as "preposterous". Counsel pointed out that the Complainant took advantage of the opportunity to provide irreverent and salacious accusations to embarrass the Member (e.g., that she wanted to have sex in a Catholic Church; that she "stripped naked" at a pool party; that she got "buck naked" on a dock with some "hot men"). She submitted on behalf of the Member that the Complainant was motivated to pursue his complaint against the Member, not because he was the victim of sexual abuse, "but because [the Member] ended their personal relationship, and his free ride. He was used to getting what he wanted from her, and when she finally put an end to those patterns, he became frustrated, furious, and vindictive."

244. The evidence at the hearing disclosed that the Complainant did bare animosity toward the Member, at least in June 2018, when he screamed expletives at her and threatened that he was going to "rip [her] life to pieces"; "screw" her and "[her] career, [her] scholarships - everything." At the hearing, the Complainant testified that he wanted the Member to lose her license.

245. The Member's counsel also submitted that the Complainant's description of the OT sessions he claims to have attended with the Member were vague. When asked to provide details, the Complainant indicated the Member helped him build his resume, with outreach regarding schooling and to help him with success. He claimed she gave him "psychotherapy", dealing with his addictions, his marriage, "everything". Although he discussed counselling that the Member gave him in relation to his anxiety, the Complainant offered no explanation of therapeutic techniques or exercises or progression therapy. The Member's counsel submitted that general encouragement, checking on sobriety, providing guidance on a resume, explaining mindfulness and goal-setting, encouraging volunteerism and networking does not constitute OT. These were the general services provided by the entire team at The Bridge.

246. The Member's counsel also submitted that the Panel should consider the Complainant's criminal record when assessing his credibility. The Complainant's criminal record included convictions for possession of cocaine,<sup>100</sup> dangerous driving,<sup>101</sup> attempt theft,<sup>102</sup> falling to comply

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<sup>97</sup> Exhibit 2, Tab 8, pp. 25-26.

<sup>98</sup> Exhibit 49.

<sup>99</sup> Exhibit 15.

<sup>100</sup> Exhibits 19, 20.

<sup>101</sup> Exhibit 21.

<sup>102</sup> Exhibit 25.

with a recognizance<sup>103</sup> and failing to appear in court.<sup>104</sup>

247. While the cross-examination of the Complainant was extensive and dealt with some specific details concerning the Kiss, the meetings between the Complainant and the Member, the Panel found the Complainant to be a credible witness. He appeared honest and demonstrated a good memory of significant events and conversations and was consistent in his testimony regarding the important details of the case. The Complainant's lack of memory with respect to minor details such as the name of the bar or restaurant did not sway the Panel in determination of his credibility. Many of the documents introduced into evidence supported his position with respect to the relationship between himself and the Member.

248. The Member's counsel submitted that the Complainant's descriptions of the OT sessions are "quite vague".<sup>105</sup> But four or more years after these sessions, one would not expect a client to remember exact session content but generally what was discussed and possibly in what order they were discussed. Not precisely recollecting the amount of money and method of payment for drinks consumed over three years ago or the exact establishment in what was a new city to the Complainant is not unreasonable and is no basis on which to determine credibility. This was the level at which the Complainant was able to recall those details, and in the Panel's view, the level of detail which he provided and the accuracy with which he did so was reasonable.

249. The Panel carefully considered the submission made on the Member's behalf that the Complainant is motivated by revenge against the Member. It was obvious that the Complainant bears some animus toward the Member. For that reason, the Panel approached the Complainant's evidence with some caution and it looked for confirmatory evidence. Ultimately, the Panel concluded that there was abundant evidence to confirm the Complainant's version of events, and that his animus towards the Member does not diminish the legitimacy of his complaint.

250. The Member's counsel urged the Panel to take the Complainant's criminal history into consideration when assessing credibility. The Panel noted that of his criminal convictions, only one – the attempt theft – involved a crime of dishonesty, which would be particularly relevant to the assessment of his credibility. The Panel took that into account, and the credibility of the Complainant was ascertained by carefully reviewing his evidence as weighed with other evidence.

### **The Member**

251. College counsel submitted that the Member is not a credible witness, arguing that her version of events does not accord with common sense, that it is inconsistent with other evidence, and that is not internally consistent. In addition, while conceding that all registrants have an interest in the outcome of disciplinary proceedings against them, the College pointed out that the funding for the Member's academic pursuits is predicated upon her membership in the College, and that the Member is aware that she faces mandatory revocation of her certificate of registration in the event she is found to have engaged in sexual intercourse with the Complainant

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<sup>103</sup> Exhibits 24, 26.

<sup>104</sup> Exhibits 22, 23.

<sup>105</sup> Member's Closing Submissions, paras. 84-89.

at a time when she was his OT.

252. In arguing that the Member's version of events does not accord with common sense, the College focused on the Member's claims she that never provided OT services to the Complainant. This was said to be inconsistent with the requirement at The Bridge for residents to meet with the OT weekly, as well as the facts that the Member maintained a client file for the Complainant, sent him emails discussing his goals, identified the Complainant as her client in emails, made entries in the spreadsheet<sup>106</sup> referring to OT goals and outcomes, drafted the February 9, 2017 letter<sup>107</sup> referencing the purpose and goals of weekly OT sessions, and that the Member admitted to the College in June 2018 that the Complainant was her client.

253. Similarly, the College contended that the Member's alternative position that if she was the Complainant's OT, the OT-client relationship lasted only until October 13, 2016 was inconsistent with other evidence that was reliable, notably The Bridge's requirement that as a resident, the Complainant was required to meet with the Member for weekly OT sessions. The College submitted that the Member's alternative position that if it existed, any OT-client relationship ended on October 13, 2016 is inconsistent with other evidence, including the evidence that the Member sent the Complainant emails discussing his goals, that she would identify the Complainant as her client in emails, and that she made several entries in the spreadsheet<sup>108</sup> after October 13, 2016, referring to OT goals and outcomes. In addition, the Member drafted the February 9, 2017 letter,<sup>109</sup> which suggested that the OT sessions were ongoing as of the letter's date ("the following letter is acknowledge that [the Complainant] has been attending weekly individual sessions with myself [the Member], Occupational Therapist, since August, 2016").<sup>110</sup>

254. The College also took the position that the Member's assertions that she acted "without agency" after November 15, 2016 did not accord with common sense. The College pointed out that Member never described the November 15 Kiss as a sexual assault until September 2018. In fact, she did not advise the police that the Kiss was a sexual assault until April 2019.<sup>111</sup>

255. The College points out that the Member had sufficient agency to continue working, engaged in reflective practice about her role as an OT at The Bridge, contacted the College anonymously to inquire about record keeping standards, filed a complaint against Mr. Bowick, filed a complaint against The Bridge, and called the police after breaking up with the Complainant. After leaving The Bridge, the Member continued to work as an OT and continued her studies, securing funding and awards for her PhD studies.

256. It was the College's submission that the Member's alternative defence makes no sense, and that the Member's claim that the November 15 Kiss amounted to a sexual assault was inconsistent with the evidence that she breached boundaries by biking with the Complainant

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<sup>106</sup> Exhibit 2, Tab 2.

<sup>107</sup> Exhibit 2, Tab 8, pp. 25-26.

<sup>108</sup> Exhibit 2, Tab 2.

<sup>109</sup> Exhibit 2, Tab 8, pp. 25-26.

<sup>110</sup> Exhibit 2, Tab 8, p. 25.

<sup>111</sup> Exhibit 50.

alone, taking him for a drink and flirting with him. The College maintained that the Member “consensually kissed [the Complainant] back on November 15, 2016”.

257. In addition to contending that the Member’s evidence was inconsistent with other evidence (and especially the testimony of the Complainant, Mr. Bowick, Ms. Mason and Ms. Bik and the documentary evidence that the Member herself offered), the College submitted that the Member’s evidence is not internally consistent. In its submission, the College traced what it described as the evolution of the Member’s position, from June 28-30 2018 through August 8, 2019 (when the Member responded to additional information provided by the College).<sup>112</sup> During that time the Member’s communication with the College set out starkly inconsistent positions as to whether she provided OT services to the Complainant and whether their relationship was consensual. The first description of the Kiss as a sexual assault was on April 12, 2019.<sup>113</sup> College counsel noted that after receiving email exchanges between the Member and the Complainant dated on or after October 13, 2016 and disclosing interventions taken on the Complainant’s behalf and their intimate relationship,<sup>114</sup> the Member described her role as a part-time reintegration facilitator and claimed that her interventions on the Complainant’s behalf were in that role, and not as an OT.

258. The Member’s counsel’s submissions concerning the Member’s credibility focused principally on the need for the Panel to avoid myths and stereotypes about how sexual assault victims can be expected to act. Those submissions, and the Panel’s assessment of them, are set out in a separate section. The Panel has taken those submissions into account in assessing the Member’s credibility.

259. The Panel did not find the Member to be a credible witness. She did not seem honest and was at times defensive and angry in her testimony. Under cross-examination, she was evasive or did not answer questions fully.

260. The Member’s testimony and exhibits she generated were inconsistent on the crucial issue of whether she was the Complainant’s OT. The Member claimed she was doing reintegration work and not acting as the Complainant’s OT at times when she was identifying herself inside and outside The Bridge as an OT, and as she worked there with clients, both individually and in group situations. In her testimony, the Member conceded that when she registered with the College, she identified herself as an OT in her work at The Bridge.

261. Key aspects of the Member’s testimony were impossible to reconcile with exhibits and testimony from the other (credible) witnesses. Her version of the events seemed illogical or unlikely, e.g. that she discussed moving in with the Complainant before they had sex. She did not have a plausible explanation for the discrepancies between her chart and the spreadsheet or between what she told the College in her June 2018 communication with them and what she testified. There were discrepancies within her testimony, e.g. labelling the kiss as a sexual assault so much later and yet claimed even in testimony about loving the Complainant and being “all in”. There is much evidence of the Member being oppositional, having had multiple conflicts

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<sup>112</sup> Exhibit 51.

<sup>113</sup> Exhibit 59.

<sup>114</sup> Exhibit 2, Tab 16; Exhibit 2, Tab 14; Exhibit 11; Exhibit 2, Tab 15, p. 60; and Exhibit 2, Tab 15, p. 61.

with others in the workplace and within her place of residence.

262. There is also evidence of the Member's deception of others at her workplace. For example, hiding the fact that she and the Complainant were living together from her employer when she knew that this was not allowed. The Member also admitted to deception with her parents in not telling them that the Complainant was a resident at The Bridge. From the evidence, the Panel also concluded that the Member was not appropriately concerned about being truthful in her documentation. For example, the Member admitted that she only put the date of February 2017 as the Complainant's discharge date in the spreadsheet "for statistics purposes" because that was a date that Mr. Bowick would "accept". There were inconsistencies in her testimony, such as calling some things OT that she did at The Bridge (e.g. gardening) and others not (sharing resources), saying that some activities were OT for some clients and yet even though the Complainant participated, they were not considered OT for him.

263. Lastly, the changing of her CV, eliminating her role as an OT at The Bridge and bifurcating her roles of OT and reintegration facilitator to suit her purposes (while reporting to the College that all hours were OT hours) demonstrates deception and evasion of responsibility.

### **Avoiding reliance on Stereotypes and Myths**

264. Counsel for the Member submitted that the Panel should not rely on myths and stereotypes about how sexual assault victims should react. It was the Member's counsel's submission that in cross-examination and throughout their written submissions, College counsel accused the Member of characterizing the incident on November 15 as sexual assault to avoid accountability with the College, and that the Member did not experience any trauma.

265. The Member's counsel pointed in particular to the following aspects of the College's approach to the Member's behaviour in relation to the events of November 15, 2016:

- a. The Member was criticized for not saying anything to the Complainant while he was assaulting her.
- b. The Member was also criticized for not immediately reporting that she had been sexually assaulted to anyone at The Ship, the police, Mr. Bowick, Ms. Carrothers, her friend Coley, or the College.
- c. College counsel questioned the Member about her ability to discharge her role as an OT, launch complaints against her employer and her landlord, and apply to pursue a PhD. College counsel said that it defies common sense that the only thing the Member could not do was report—the clear implication being that if the Member had *really* been sexually assaulted, she would have reported it.
- d. The Member was criticized because her September 24, 2018 correspondence to the College did not state that she felt terrified as she was being assaulted. College counsel suggested that if the Member had been legitimately terrified, she would

not have met with the Complainant in person on November 18.

266. The Member’s counsel submitted that Canadian law has long recognized that there is “no inviolable rule on how people who are the victims of trauma like a sexual assault will behave”<sup>115</sup> and that relying on myths and stereotypes to assess the credibility of sexual assault complainants jeopardizes the truth-finding function.<sup>116</sup> She submitted that the Panel must not rely on stereotypes about sexual abuse and sexual abuse complainants during a credibility assessment, and that doing so would amount to an error of law.<sup>117</sup>

267. In their reply submissions, College counsel submitted that not all questions about circumstances surrounding a sexual event amount to myths or stereotypes, and that the questions posed by the College were relevant to the Member’s credibility. Further, the College countered by submitting that the Member was inviting the Panel to engage in stereotyping against the Complainant, who had a criminal record and was recovering from drug addiction. The College conceded that the Complainant’s criminal convictions could be used in assessing his credibility, but they could not be used to assess his character. But, the College contended, that was “exactly what [the Member was] asking [the Panel] to do. [The Member] is claiming that because [the Complainant] has a history of convictions (all related to an addiction) he cannot be believed.”<sup>118</sup>

268. The Panel understands that in cases where sexual assault is alleged, triers of fact must avoid relying on myths and stereotypes. In this case, however, the Member was a regulated health professional who was obligated to maintain professional boundaries with clients. In the aftermath of the November 15 Kiss, she referred to written guidance from the College<sup>119</sup> but failed to follow that guidance in two key respects: the Member did not document the boundary crossing, nor did she discuss the incident with another professional.

269. In the Panel’s view, the discussion about myths and stereotypes begs the fundamental question of whether the November 15 Kiss was a sexual assault. Making due allowance for the fact that there is no inviolable rule on how people who are the victims of trauma like a sexual assault will behave, the Panel has determined that the totality of the evidence compels the conclusion that even if the Complainant surprised her with it, the November 15 Kiss was not the traumatic event that the Member subsequently made it out to be. There is simply too much evidence that cannot be reconciled with the Member’s claim that the November 15 Kiss was unwelcome, assaultive and not responded to.

### **Issues determined, in the order in which they were determined**

270. The Panel accepted ILC’s advice about the issues that called for determination in this case, and the order in which the Panel should determine them. They are set out below.

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<sup>115</sup> *R. v. D.D.*, [2000] S.J.C. No. 44 at para. 65; *R. v. Kiss*, 2018 ONCA 184, at para. 101; *R. v. Lacombe*, 2019 ONCA 938 at para 45.

<sup>116</sup> *R. v. Lacombe*, 2019 ONCA 938 at para 31.

<sup>117</sup> *R. v. A.R.D.*, 2017 ABCA 237 at paras. 8-9, 30-32, 39, 42-44, aff’d [2018] 1 SCR 218; *Ontario (College of Massage Therapists of Ontario) v. Schoelly*, 2018 ONCMTO 36 (CanLII).

<sup>118</sup> College’s Reply Submissions, p. 7.

<sup>119</sup> Exhibit 2, Tab 17, *Standards for the Prevention of Sexual Abuse* .

### **Were the Member and the Complainant ever in an OT-client relationship?**

271. Applying the criteria provided by the caselaw, the Panel concluded that there was a time during which the Member and the Complainant were in an OT-client relationship.

272. At the time of the relevant events, neither the word “patient” nor the word “client” was defined in section 3 of the Code. However, some guidance is provided by decisions of discipline committees and the courts. In particular, factors adapted from the *Redhead* case<sup>120</sup> were considered when determining whether the Complainant was the Member’s client. Those factors, and the Panel’s conclusions in relation to them are set out below.

***Whether the Member had a patient file for the Complainant, including history, physical examination, diagnosis, plan of management, prognosis, diagnostic imaging reports, and a written record of treatments***

273. The Panel concluded that this factor was satisfied. Exhibit 2, Tab 9 was the client file in relation to the Complainant. Its contents included the following:

- a. Entries recording the Member’s interactions with the Complainant that she kept separate from files shared with other staff at The Bridge. All of these records commenced with “OT Note” and ended with the Member’s signature and College designation, “OT Reg.Ont.” There were 11 separate entries reflecting client interactions.
- b. A list of other professionals involved in the client’s care whom the Member had the Complainant’s permission to contact.
- c. A consent form with the Complainant’s name on it.
- d. A form entitled “Getting to Know You!” on which was recorded demographic and personal information, e.g. name, contact information, date of birth in addition to health information such as allergies, medications, addictions.
- e. An OT referral form.
- f. A letter written by the Member reporting the Complainant’s involvement at The Bridge.
- g. A release of information form from a probation officer requesting that the Member contact her regarding the Complainant’s participation in counselling.

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<sup>120</sup> *Ontario (College of Physicians and Surgeons of Ontario) v. Redhead, C. A.*, 2013 ONCPSD 18

***The number and nature of treatments received by the Complainant from the Member, and the location in which those treatments were received***

274. In the Panel’s view, this factor also points to the conclusion that the Member and the Complainant were in an OT-client relationship. To elaborate:

- a. The client chart<sup>121</sup> contains 11 entries.
- b. Exhibit 2, Tab 2 (the spreadsheet reflecting interaction between the Member and the Complainant) contains 80 entries, all of which were labelled one of “OT Intervention”, “Referrals”, “OPPersonal Support”, or “OPProgram Participation” and many of which also included stages of the OT framework CPPF.
- c. All treatments were provided at The Bridge.
- d. The February 9, 2017 letter written by the Member<sup>122</sup> that lists 6 bullet points outlining the “purpose and focus of these weekly sessions”, including “talk therapy”, “setting goals and developing plans”, “learning and applying problem solving skills”, “exploration of how his thoughts, behaviour and emotions work ...”, “replacing all or nothing thinking patterns ...” and “developing awareness of higher level systems ....”
- e. The Complainant testified that he attended weekly sessions with the Member from August 2016 to at least January 2017.
- f. As set out in the job description and in the evidence of James Bowick, the explicit expectations at The Bridge was that residents would attend occupational therapy services weekly. This was also the Complainant’s expectation.

***Whether any of the services provided involved psychotherapy***

275. The Panel made no finding in relation to this factor because the relevant evidence was inconclusive:

- a. Provision of psychotherapy services is not reflected in the client chart.<sup>123</sup>
- b. However, the Complainant testified that he thought the Member provided some psychotherapy services in relation to past problems and addictions.
- c. It was Mr. Bowick’s evidence that he thought that the Member was providing psychotherapy counselling.

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<sup>121</sup> Exhibit 2, Tab 9.

<sup>122</sup> Exhibit 2, Tab 8.

<sup>123</sup> Exhibit 2, Tab 9.

***Whether the Complainant ever completed a consent to treatment form***

276. Overall, the evidence is consistent with the conclusion that the Complainant consented to treatment. The Member testified that the Complainant provided oral consent to treatment. There is an unsigned consent form within the OT notes that states that the Complainant declined to sign it but that verbal consent was obtained and documented.

***Whether there was any documentary evidence in which the Member referred to the Complainant as her patient***

277. There is evidence in which the Member referred to the Complainant as her patient, as reflected below:

- a. The emails sent by the Member identifying the Complainant as her “client”; for example the February 9, 2017 letter,<sup>124</sup> and the email to the lawyer about having the criminal proceedings against the Complainant transferred from Sault Ste. Marie to Hamilton.<sup>125</sup>
- b. The Member’s admissions to the College in June 2018, that the Complainant was her client in which the Member advised the College that she had “been in a relationship with a person she provided occupational services to.”<sup>126</sup> The Member further informed the College that “[p]rior to commencing a personal relationship with this person ... she terminated the therapeutic relationship and documented the termination of the client/therapist relationship”<sup>127</sup> and that prior to entering this relationship, “she read the College ‘guidelines’ and remembers seeing that she should not enter into a relationship with a former client unless a reasonable amount of time had passed.”<sup>128</sup> She also stated that she and the person “were aware of ‘the legislation and the risk.’”<sup>129</sup>

***Whether there were any letters of consultation written to the Complainant’s primary physician or other caregivers***

278. The February 9, 2017 letter<sup>130</sup> lists weekly OT session content and the Complainant’s accomplishments since being at The Bridge, but the letter’s recipient is unknown.

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<sup>124</sup> Exhibit 2, Tab 8.

<sup>125</sup> Exhibit 11.

<sup>126</sup> Exhibit 3, Tab A, p. 97.

<sup>127</sup> Exhibit 3, Tab A, p. 97.

<sup>128</sup> Exhibit 3, Tab A, p. 98.

<sup>129</sup> Exhibit 3, Tab A, p. 98.

<sup>130</sup> Exhibit 2, Tab 8.

***Whether there were any letters reporting back to the Member about the Complainant***

279. The evidence discloses that the Member was copied on Mohawk College's November 17, 2016 email to the Complainant.<sup>131</sup>

***Whether the Member referred the Complainant to other professionals.***

280. Exhibit 2, Tab 2 (the spreadsheet reflecting interaction between the Member and the Complainant) includes an entry October 13, 2016 that records a referral to physiotherapist.

281. After careful consideration, the Panel rejected the Member's position that her interaction with the Complainant did not proceed beyond the assessment stage and that therefore, no OT-client relationship existed between them. The Panel has accepted the evidence of the Complainant and Mr. Bowick that contradicts the Member's position. Moreover, assessment still involves an OT-client relationship. The sheer number of sessions suggests professional engagement beyond assessment in any event. The Member testified that she was acting as an OT during the sessions when she was assessing the Complainant's need for OT services. The Complainant's client chart<sup>132</sup> indicates that 11 sessions were devoted to that purpose. The Panel cannot accept the Member's evidence that the sessions were entirely taken up with the need to assess the Complainant's need for OT services. It is unreasonable to think that it would take 11 sessions over 3 months just to decide whether someone needed OT.

282. In the Panel's view, Exhibit 2, Tab 2 (the spreadsheet reflecting interaction between the Member and the Complainant) is starkly inconsistent with the Member's position that her professional interaction with the Complainant did not proceed beyond the assessment stage. As noted above, the spreadsheet contains 80 entries in relation to the Complainant all of which were labelled one of "OT Intervention", "Referrals", "OPPersonal Support", or "OPProgram Participation" and many of which also included stages of the OT framework CPPF. The evidence indicates that the Member made each of those entries. The fact that the Member referred the Complainant to a physiotherapist on October 13, 2016 is also inconsistent with her position that there was no OT-client relationship.<sup>133</sup> The Panel notes that other evidence showed that the Member's professional interactions with the Complainant went beyond the assessment stage, as exemplified by the February 9, 2017 letter.

283. In the Member's closing submissions,<sup>134</sup> she states that "[g]eneral encouragement, checking on sobriety, providing guidance on a resume, explaining mindfulness and goal-setting,

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<sup>131</sup> Exhibit 11.

<sup>132</sup> Exhibit 2, Tab 9.

<sup>133</sup> The Panel accepted that Exhibit 2, Tab 2 (the spreadsheet reflecting interaction between the Member and the Complainant) accurately reflected the Member's interactions with the Complainant and concluded that the contemporaneously made entries contained in it were reliable. On the other hand, the Panel concluded that many aspects of the Member's entries in the Complainant's "Client Progress Notes" (Exhibit 2, Tab 9) were inaccurate and unreliable. They do not accurately portray what occurred during the time when the Complainant was a resident at The Bridge.

<sup>134</sup> Members Closing Submissions, para. 87.

encouraging volunteerism and networking is not occupational therapy. This was the essence of the services provided by the entire team at the Bridge.” All of the tasks listed would indeed be seen as appropriate occupational therapy interventions within the context of The Bridge. As a member of a team, OT roles can and often do overlap with the roles of other team members; however, the OT would apply a unique ‘OT lens’ to the task, in this case, reintegration, and so complement the work of other professionals in a common task or goal for the individual clients.

284. The Member argues that the Complainant’s reference to SMART goals and building a resume and mindfulness could have been in relation to the group sessions that the Member led. However, what the Member doesn’t seem to understand is that group work done by an OT in this practice context is occupational therapy. Attendees at such sessions would be clients and it is expected that the OT would document in each client’s chart that they attended the session and what the content of the session was.

285. The Panel also considered that a reasonable person viewing the matter objectively would believe that when interacting with a resident at The Bridge, an OT would be acting as an OT. In the Panel’s view, when this is not the case, it would be incumbent upon the OT to ensure that the person knew that the service provider was not acting as an OT.

286. Other evidence that is consistent with the conclusion that there was an OT-client relationship is the fact that the Member maintained and retained a “client” file in relation to the Complainant which she took with her when departing from The Bridge. The Member did that because she felt that this was her responsibility as a regulated health professional and the custodian of the client records.

**If the Member and the Complainant were in an OT-client relationship, over what period did that relationship exist?**

287. The Panel concluded that the OT-client relationship between the Member and the Complainant existed from August 2016 to at least the end of January 2017 (that is, during the time when the Complainant was a resident at The Bridge). In the next several paragraphs, the Panel elaborates on that conclusion.

288. It was the evidence of both the Complainant and Mr. Bowick (both of whom the panel found to be credible) that the Complainant was receiving OT services while he was a resident at The Bridge. As discussed above, the Panel accepts that the spreadsheet<sup>135</sup> is accurate and the chart<sup>136</sup> is not. The spreadsheet suggests that the OT-client relationship lasted beyond even the date when the Member and the Complainant began to cohabit. The first entry is August 8, 2016 and the last OT intervention (Described as “Conclude/Exit/Discharge”) was on February 24, 2017. However, the spreadsheet also indicates that on March 20, 2017, the Complainant was part of an OT group (therefore still receiving OT) on that date.

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<sup>135</sup> Exhibit 2, Tab 2

<sup>136</sup> Exhibit 2, Tab 9.

289. The Member took the position that the entries regarding CPPF stages of OT intervention on the spreadsheet<sup>137</sup> do not record actual interventions but were a reflective exercise. The Panel cannot accept this position because it is neither plausible nor likely. If the Member knew she could provide these OT services (that they would be of benefit to the client), why didn't she? The Panel concluded that the spreadsheet entries are more than just reflective notes in relation to "possible" OT interventions and that these entries are in relation to OT sessions that actually occurred.

290. The Member's February 9, 2017 letter that states as follows: "The following letter is to acknowledge that [the Complainant] has been attending weekly individual sessions with myself, [the Member], Occupational Therapist, since August, 2016."<sup>138</sup> This suggested that the Complainant was still attending the weekly OT sessions on that date.

291. It was the Member's position that if that an OT-client relationship between the Member and the Complainant ever existed, it was terminated on October 13, 2016 when the Complainant declined further OT services. The Panel concluded that the weight of the evidence establishes otherwise; that the OT-client relationship existed after that date and, continued during the Member's and the Complainant's intimate personal relationship.

292. In addition to the points made in paragraphs 287 through 290 above, the Panel has taken several other aspects of the evidence into account in coming to this conclusion. On the Complainant's testimony, he did not decline OT services while he was a resident at The Bridge. In addition, a conclusion that the Member discharged the Complainant from treatment on October 13, 2016 is inconsistent with the Member's subsequent emails and other correspondence. Discharging the Member from OT services on October 13, 2016 cannot be reconciled with subsequent entries in the spreadsheet,<sup>139</sup> which the Panel has concluded are accurate. It would also have been contrary to The Bridge's policy of requiring residents to attend weekly OT sessions.

### **When did the Member's and the Complainant's sexual relationship begin?**

293. The Panel concluded that the Member's and the Complainant's sexual relationship began by either November 18 or 20, 2016.

294. The evidence supporting this conclusion is as follows. It was the Complainant's evidence that he and the Member first engaged in flirting, kissing, oral sex and vaginal sex in mid-November 2016. This was consistent with Mary Bik's evidence that a man resembling the Complainant spent between 20 and 30 nights in the Member's room in November and December

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<sup>137</sup> Exhibit 2, Tab 2

<sup>138</sup> The Panel concluded that the February 9, 2017 letter is authentic and accurately states that the complainant received OT services at The Bridge and describes the relevant interventions. Because it lacks that information, the Panel concluded that the February 10, 2017 was inaccurate. Of course, the February 9, 2017 letter contains the inaccurate statement that the Complainant had "[o]btained a permanent housing with another student in an environment that is more conducive to his academic pursuits"

<sup>139</sup> Exhibit 2, Tab 2.

2016. It is also consistent with the intimate/romantic and sexual emails that the Member sent to the Complainant beginning in November 2016.

295. The Panel does not accept the Member's position that she and the Complainant did not have sex until late December 2016. In addition to the reasons listed above, it is not plausible that the Member and the Complainant would be discussing moving in together on a non-platonic basis if they had never had sexual relations. In any event, were it to be made, a finding that sexual relations only began in December 2016 would still be problematic for the Member, given the Panel's conclusion that the OT-client relationship continued until at least end of January 2017, *i.e.* the Complainant was still receiving OT services from the Member in December, 2016.

**Were the Member and the Complainant concurrently in an OT-client relationship and a sexual relationship?**

296. For the reasons that are above and based on evidence that the Panel found to be clear, cogent, and convincing, the Panel concluded that a concurrent client-OT relationship and sexual relationship existed between the Member and the Complainant.

**If the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship, when did this occur?**

297. For the reasons that are above and based on evidence that the Panel found to be clear, cogent, and convincing, the Panel concluded that the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship from November 18 or 20, 2016 to at least the end of January 2017. In addition, there was evidence that this concurrent OT-client relationship and a sexual relationship continued until February 24, 2017, in that the spreadsheet indicates that the Complainant was discharged from OT services on that date.<sup>140</sup>

**If the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship, did their contact amount to "sexual abuse"?**

298. The Panel concluded that the contact between the Member and the Complainant during their concurrent OT-client relationship and a sexual relationship amounted to sexual abuse.

299. The term "sexual abuse" is defined in subsection 1(3) of the Code as follows:

Sexual abuse of a patient

(3) In this Code,

"sexual abuse" of a patient by a member means,

(a) sexual intercourse or other forms of physical sexual relations between the

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<sup>140</sup> Exhibit 2, Tab 2, p. 12. This is described as "OTIntervention" and the Member is indicated as the staff member responsible for it.

- member and the patient,
- (b) touching, of a sexual nature, of the patient by the member, or
- (c) behaviour or remarks of a sexual nature by the member towards the patient.<sup>141</sup>

While this definition is disjunctive (*i.e.*, a finding that any one of (a), (b) or (c) would be a sufficient basis for concluding that the Member sexually abused the Complainant), the Panel found that the Member engaged in each of the three kinds of conduct described in this subsection (*i.e.*, sexual intercourse or other forms of physical sexual relations between the member and the patient; touching, of a sexual nature, of the patient by the member; and behaviour or remarks of a sexual nature by the member towards the patient). The Panel based this finding primarily on the evidence of both the Member and the Complainant, and in the case of the third element, “behaviour or remarks of a sexual nature by the member towards the patient” found strong confirmation in emails that the Member sent to the Complainant.

300. The Member admitted to having had a sexual relationship with the Complainant, one that she says began in December 2016. As discussed above, however, on the basis of other witness testimony, including the Complainant’s testimony about their sexual relationship, the Panel found that the sexual relationship began on November 18 or 20, 2016 and continued during the time the Member and the Complainant cohabited. The Panel concluded that the OT-client relationship between the Member and the Complainant existed from August 2016 to at least the end of January 2017.

301. The Panel’s finding that the Member sexually abused the Complainant is not the result of a technical application of this provision. The Member and the Complainant were in an OT-client relationship and that involved an inherent power imbalance. The Complainant was vulnerable and the Member was in a position of authority and could exercise power over him. It was telling that when asked how he felt when the sexual relationship began, the Complainant testified that he felt special; that he was getting more attention. The Complainant testified that he was overwhelmed and didn’t think that a person in the Member’s position would have a relationship with a person in his position. He noted in particular that the Member never held it over him that he was a man with a criminal record and no money.

**If the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship, did their contact amount to contravening a standard of practice of the profession or failing to maintain the standard of practice of the profession (section 1, paragraph 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*)?**

302. The Panel did not make a finding that the Member contravened a standard practice of the profession or that she failed to maintain a standard of practice of the profession, despite its determination that the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship. The Panel reached the conclusion that it could not make this finding in the absence of expert evidence establishing the standards of practice of the profession.

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<sup>141</sup> Subsections (4) and (5) provide for exceptions to this definition, none of which apply in this case.

303. The Panel accepted the Member’s counsel’s submission and the advice of ILC that it is generally necessary for expert evidence to be led in order to establish what constitute the standards of practice of a profession. ILC reminded us that unlike some other administrative tribunals, the Panel is not entitled to act on “generally recognized scientific or technical facts, information or opinions within its scientific or specialized knowledge”<sup>142</sup> but must instead base its findings “exclusively on evidence admitted before it” and “nothing is admissible at a hearing that would be inadmissible in a court in a civil action.”<sup>143</sup> Consequently, while both the *Standards for the Prevention of Sexual Abuse* and the *Standards for Professional Boundaries* were in evidence and there was an agreement that the document setting out the *Standards for the Prevention of Sexual Abuse* was entered as evidence of the truth of its contents, ILC cautioned against acting on them in the absence of an express agreement between the parties that these items constitute the College’s standards for the purposes of section 1, paragraph 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

**If the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship, engaging in conduct or performing an act, relevant to the practice of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional (section 1, paragraph 48 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*)?**

304. As the Member’s counsel submitted, there is no statutory definition of “disgraceful, dishonourable, or unprofessional” conduct. Instead, whether conduct is “relevant to the practice of the profession” or “disgraceful, dishonourable, or unprofessional” are matters within the Panel’s specialized expertise. Expert evidence is not required.<sup>144</sup>

305. Further, and as the Member’s counsel submitted, both disgraceful and dishonourable conduct carry an element of moral failure, whereas conduct need not involve dishonest or immoral elements to be considered unprofessional. These characterizations can be looked at as being on a sliding scale of seriousness, with “unprofessional” at the lowest end and “disgraceful” at the highest end.<sup>145</sup>

306. “Disgraceful” conduct is conduct that brings shame upon the member and, by extension, the profession, and casts doubt on the member’s inherent ability to discharge the obligations expected of members of the profession. “Dishonourable” conduct involves moral failing and some element of untruthfulness and is more elevated than unprofessional conduct. “Unprofessional” conduct applies to a pattern of conduct involving disregard for professional obligations but does not rise to the level of disgraceful or dishonourable conduct.<sup>146</sup>

307. The Panel concluded that the Member’s conduct would reasonably be regarded by

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<sup>142</sup> *Statutory Powers Procedure Act*, RSO 1990, c S.22, s. 16(b).

<sup>143</sup> Code, s. 49.

<sup>144</sup> Member’s Closing Submissions, para. 390.

<sup>145</sup> Member’s Closing Submissions, paras. 392-393.

<sup>146</sup> Member’s Closing Submissions, para. 393.

members of the profession as each of disgraceful, dishonourable and unprofessional. As the Panel has found, the Member engaged in concurrent sexual and OT-client relationships with the Complainant. Sexually abusing and taking advantage of a vulnerable individual is a moral failure and so is both disgraceful and dishonourable. The misuse of power by an OT as it relates to a patient must never occur. There can never be a concurrent sexual relationship and an OT-client relationship. It follows that the Member's contact would be regarded by members as unprofessional. Moreover, the Member showed a serious and persistent disregard for her professional obligations. The relationship between an OT/health care professional and a client is based on respect and trust. It is striking that the Member read the *Standards for the Prevention of Sexual Abuse*<sup>147</sup> and discussed the boundary crossing with the Complainant but proceeded with the sexual relationship. The conclusion is inescapable that the Member disregarded guidance from the College as to the professional standard and ignored her responsibilities and obligations as a health care professional.

**If the Member and the Complainant were concurrently in an OT-client relationship and a sexual relationship, did the Member's conduct amount to engaging in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist (section 1, paragraph 49 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*)?**

308. For the reason set out above in relation to its finding that the Member engaged in conduct or performing an act, relevant to the practice of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, the Panel found that the Member engaged in conduct that would reasonably be regarded by members as conduct unbecoming an OT.

**Does the Member's confusion and lack of agency resulting from (1) her pre-existing psychological state (in particular her impaired self-reference and dissociation) and (2) was the Member sexually assaulted by the Complainant on November 15, 2016 and does that explain why she entered into a relationship with the him?**

309. The Member submits if the Panel finds that the occupational therapist-client relationship continued until January 2017, "the Member relies on her confusion and lack of agency resulting from (1) her pre-existing psychological state of mind (in particular her impaired self-reference and dissociation) and (2) the impact of the sexual assault perpetrated by [the Complainant] on November 15, 2016 to explain why she entered into a relationship with [the Complainant]" and that "the evidence of Dr. Haskell explains why [the Member] was not acting with agency when she entered into a sexual relationship with [the Complainant]."<sup>148</sup>

310. The Panel does not accept the submission that the Member was sexually assaulted by the Complainant on November 15, 2016 and rejects the submission that a sexual assault on that date explains why she subsequently entered into an intimate relationship with the Complainant. The

<sup>147</sup> Exhibit 2, Tab 17.

<sup>148</sup> Member's Closing Submissions, paras. 3, 411.

Panel rejects the contention that the Member acted with a lack of agency during the ensuing 19 ½ months. Further, even if the Member did act with a lack of agency during a portion of that time, the Panel questions whether that lack of agency affords her a defence for the acts of professional misconduct in which she engaged.

311. The Panel accepts that Dr. Haskell is a qualified expert in her area; however the Panel agrees with the College's position that her evidence has little impact on this case. Expert opinions are dependent upon their factual foundations. Dr. Haskell was not provided with the information in order to formulate an accurate opinion. Dr. Haskell conceded that her opinion and findings are premised upon the accuracy of the information provided to her.

312. The Panel notes that despite her professed lack of agency, the Member did not report to the College that she was unable to function as an OT. As a professional, it was her responsibility if she felt this was the case. But the Member gave no indication to the College that she could not act in accordance with professional standards and practise OT with capacity.

313. The Panel does not accept that the November 15, 2016 Kiss was a sexual assault on the Member. This characterization of the Kiss is inconsistent with the manner in which the Member described the Kiss to the College in her letter of December 3, 2018<sup>149</sup> where she said,

While the exact date that we decided we were officially dating is not clear in my memory, what I can say with certainty is that the kiss at the coffee shop is the event that sparked our relationship, which means the kiss was before I wrote any emails to [the Complainant] denoting a mutual attraction and or relationship. Certainly our relationship began before we started looking for an apartment together, which means the coffee shop event must have occurred in the latter half of November 2016.<sup>150</sup>

314. As a health care professional and a staff member at The Bridge, it was incumbent upon the Member to report the November 15 Kiss to her employer, as well as documenting it and the actions that she took to re-establish the OT-client boundaries, especially if she thought that it was a sexual assault. The fact that she did not report the Kiss to anyone lends more weight to the Member's description of the Kiss to the College rather than it being a sexual assault.

315. The Panel is satisfied that the College has proven on the balance of probabilities that the Member's evidence is *not* credible and truthful, including her testimony regarding the initial kiss between her and the Complainant on November 15, 2016.

316. On cross-examination of Dr. Haskell, College counsel pointed to the Member's written response to the College from September 2018, in which the Member stated that the "kiss sparked an attraction ... towards [the Complainant]." Dr. Haskell agreed that the Member's statement was two years, not 96 hours, after the incident. Dr. Haskell conceded that she was not present when the Kiss occurred and therefore cannot state with certainty whether the Kiss was a consensual kiss or sexual assault. When asked whether every kiss amounts to sexual abuse, Dr. Haskell testified that consensual kisses do not amount to sexual abuse.

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<sup>149</sup> Exhibit 57.

<sup>150</sup> Exhibit 57, p.1.

317. The Panel concluded that Dr. Haskell's report was based on lack of truthful and full disclosure from the Member, especially with regard to the Complainant being her client. Under cross-examination, Dr. Haskell was asked how her opinion would change if the complainant was the Member's client. Dr. Haskell responded that she would have to understand the dynamics around the Member's influence and power in terms of that relationship. Dr. Haskell provided an example from her practice of psychology and how it would be inappropriate because she has involved conversations with her clients about their lives and knows intimate information about them. The Member did have involved conversations with the Complainant and knew intimate information about him. The Complainant testified that as early as August 2016 he was disclosing intimate details to the Member during the weekly OT sessions, such as details about his marriage, fertility difficulties, and how he felt about his ex-wife's education and professional qualification.

318. Dr. Haskell confirmed that, other than the information contained in the Complainant's initial complaint, her opinion was based only on information provided by the Member.

319. The Panel does not deny the test results that the Member reportedly presented with Post-traumatic stress disorder ("PTSD") and had significant scores on the depression and the sexual concerns scales; however, there were many traumatic events since the November 15, 2016 Kiss, such as having an , events around the Winnipeg Christmas trip that included the Complainant being arrested and charged, the toxic work environment at The Bridge that resulted in her resignation and constructive dismissal, a complaint to the College, etc. So, while the Member may have been depressed and shown symptoms of PTSD on the test, it would be difficult if not impossible to isolate the November 15, 2016 Kiss (which occurred 3-4 years earlier) as the cause of the PTSD.

320. The Panel notes that lack of agency was not supported by the Member's ongoing conduct after November 15, 2016, and in particular the legal arguments she undertook and her ability to work concurrently with doing a second Masters degree, and to work effectively as an OT with other clients at The Bridge, as confirmed in Mr. Bowick's testimony.

321. Although the Member's counsel submitted that "if the Panel believes [the Complainant] over [the Member] and finds that the professional relationship continued until January 2017, the evidence of Dr. Haskell explains why [the Member] was not acting with agency when she entered into a sexual relationship with [the Complainant]," the Panel was provided with no legal authority for the proposition that loss of agency operates as an excuse for engaging in professional misconduct. Indeed, although it was a central element of her defence, nowhere in her legal submissions did the Member address the legal effect of her alleged loss of agency resulting from the alleged sexual assault by the Complainant.

322. The Panel's ILC advised us that they were unable to locate authority for the proposition that loss of agency operates as a defence in these circumstances. In other words, ILC is unaware of the legal basis on which a loss of agency would result in no finding of professional misconduct being made in circumstances where professional misconduct has otherwise been proven.

## VI. Concluding Comments

323. In closing, the Panel notes that while it understands that The Bridge was a difficult environment to work in at times (as evidenced by 911 calls due to street violence and the Member's relationship with Mr. Bowick) this does not allow for or excuse the Member's breach of her professional responsibilities. The Member knew or ought to have known that the relationship that she entered into was inappropriate and that the Complainant was a vulnerable individual who (due to the power imbalance) could not consent with a full understanding of the implications of such a relationship. Consent is not justification to enter into an OT-client personal or sexual relationship. The relationship between the Complainant and the Member became toxic, and at its end, the Member appears to have been legitimately fearful of him. But that, too, does not excuse the Member's behaviour, nor does it alter the consequences of her actions.

## VII. Direction

324. The Panel directs the parties to contact the Hearing Officer for the purpose of scheduling the continuation of the hearing so that the parties may make submissions as to the appropriate order to be made in light of the findings of misconduct that the Panel has made in this case.

**November 13, 2020**



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**Chairperson**

### **Names of Panel members:**

Donna Barker, Chairperson  
Hunaida Abboud, Member  
Allan Freedman, Public Member  
Zuher Ismail, Member

**COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO  
DISCIPLINE COMMITTEE**

**PANEL:**

**Donna Barker, Chairperson  
Hunaida Abboud, Member  
Allan Freedman, Public Member  
Zuher Ismail, Member**

**BETWEEN:**

**COLLEGE OF OCCUPATIONAL  
THERAPISTS OF ONTARIO**

**REBECCA DURCAN and  
MAYA PEARLSTON  
for the  
College of Occupational  
Therapists of Ontario**

**- and -**

**STEPHANIE ZUBRISKI**

**VALERIE WISE and  
ROZMIN MEDIRATTA  
for  
Stephanie Zubriski**

**BRIAN GOVER  
Independent Legal Counsel (“ILC”)**

**Heard February 9, 2021.**

**DECISION AND REASONS –  
ORDERS AS TO PENALTY AND COSTS**

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## I. Introduction and Orders

1. On February 9, 2021, the hearing in the matter of the College of Occupational Therapists of Ontario (the “**College**”) and Stephanie Zubriski (the “**Member**”) was reconvened in order to hear the parties’ oral submissions as to the penalty and costs orders sought by the College. Earlier (on dates in December, 2020 and January, 2021), the panel of the Discipline Committee (the “**Panel**”) had received and reviewed the Complainant’s statement describing the impact of the sexual abuse that the Panel found to have occurred in this case and the parties’ detailed and helpful written submissions on penalty and costs.

2. At the conclusion of the hearing on February 9, 2021, the Panel announced its penalty order, which consists of the following elements:

1. A direction to the Registrar to immediately revoke the Member’s certificate of registration;
2. A requirement that the Member appear before the Panel to be reprimanded. When administered, that reprimand will contain references to:
  - a. The disgrace the Member has brought to the occupational therapy profession and herself.
  - b. The troubling fact that someone with the Member’s education and prospects could be so lacking in insight to have engaged in an intimate relationship with a vulnerable client like the Complainant.
  - c. The Panel’s sincere regret that the Member’s actions appear to have ended a promising career, one that could have benefitted many people.
  - d. The embarrassment that the Member has caused the profession and The Bridge – both of which put their trust in her to act professionally.
  - e. The emotional harm the Member may have caused the Complainant.
  - f. Our public member’s distress at the lack of understanding that the Member exhibited during the hearing with respect to her relationship with the Complainant.
  - g. The fact that it is imperative that the public have full confidence in the ability of a member of the College to conduct themselves in the best interests of a client and the Member has shown a woeful lack of understanding in that regard.
3. Requiring the Member to reimburse the College for funding provided to the Complainant under the program required under section 85.7 of the Code; and
4. Requiring the Member to post security acceptable to the College in the amount of \$17,370.00 to guarantee the payment of any amounts the Member may be required to reimburse the College under item #3 above.

3. The Panel also announced its costs order, which requires Ms. Zubriski to pay the College \$196,000 in partial reimbursement of (1) the College’s legal costs and expenses, (2) the costs and expenses incurred in investigating the matter, and (3) the College’s costs and expenses incurred in conducting the hearing. This costs award represents two-thirds of the College’s actual expenses minus the amount spent in the College’s unsuccessful attempt to adduce expert opinion evidence (i.e., \$297,273.73 - \$2,250 x 2/3), resulting in the amount of \$196,682.49, which the Panel has rounded down to \$196,000.

4. The Panel's reasons for making these penalty and costs orders follow.

## **II. The Hearing on the Merits and the Panel's Findings**

5. The hearing on the merits took place on July 20, 21, 23-24, 27-28, 31, August 4, and September 24, 2020. The Panel released its written Decision and Reasons to the parties on November 13, 2020. That document was amended to correct typographical errors and re-released pursuant to s. 21.1 of the *Statutory Powers Procedure Act* on December 7, 2020 following receipt of submissions from the parties' counsel on December 1, 2020.

6. In its Decision and Reasons, the Panel concluded that the Member engaged in three forms of professional misconduct, namely that she:

1. sexually abused a client, pursuant to clause 51(1)(b.1) of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991* (the "Code");
2. engaged in disgraceful, dishonourable and unprofessional conduct, pursuant to clause 51(1)(c) of the Code and paragraph 48 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*; and
3. engaged in conduct that would reasonably be regarded by members as conduct unbecoming an occupational therapist, pursuant to clause 51(1)(c) of the Code and paragraph 49 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

7. The Panel did not make a finding in relation to a further allegation of professional misconduct in which it was alleged that the Member contravened, by act or omission, a standard of practice of the profession or failing to maintain the standard or practice of the profession, pursuant to clause 51(1)(c) of the Code and paragraph 1 of section 1 of Ontario Regulation 95/07 made under the *Occupational Therapy Act, 1991*.

## **III. Complainant's Statement Describing Impact of Sexual Abuse**

8. As noted in paragraph 6, above, the Panel found that the Member sexually abused a client, the Complainant. Subsection 51(6) of the Code requires that before making a penalty order in relation to that finding, the Panel must consider any written statement describing the impact of the sexual abuse.

9. The Complainant's statement describing the impact of the sexual abuse (to be marked as Exhibit P-1) reads in part as follows:

[...] What bothers me the most is the countless times [the Member] was proactive in seeking justice for herself while never excepting (sic) blame for her own actions. I saw no remorse. Instead she continued to spin lies to play the victim. Since my relationship with [the Member] I find it hard to connect with people. I just lost trust. I understand now the strength it takes to come forward and invoke change. As you know I'm looking at prison

for sexual assault against [the Member] under false accusations. I feel as if she wanted to instill fear so I would drop this endeavor. Still I stood strong. I hope the panel may understand my concerns for future victims.

#### **IV. The Parties' Submissions**

10. The parties' written submissions were provided to the Panel on December 22, 2020 (in the case of the College's penalty and costs submissions), January 19, 2021 (in the case of the Member's penalty and costs submissions) and January 28, 2021 (in the case of the College's reply submissions regarding both penalty and costs).

11. The Panel reviewed the parties' written submissions on the understanding that it should not form any conclusions until after reading all of the materials, hearing the parties' oral submissions and deliberating. In other words, while the Panel reviewed the materials in order to familiarize ourselves with the positions that the parties' counsel will be elaborating on in the course of their oral submissions, the Panel took care not to prejudge any of the issues in this case.

12. The Panel had questions arising from its review of the parties' submissions. Consequently, the Panel instructed its independent counsel to write to the parties' counsel, setting out those questions and giving the parties' counsel an opportunity to formulate their responses to the questions before the hearing resumed. This was done by letter dated February 1, 2021, approximately one week before the hearing was reconvened. A copy of independent counsel's letter to the parties' counsel is attached as Appendix "A".

13. In her written submissions on penalty, counsel for the College sought an order (1) directing the Registrar to revoke Ms. Zubriski's certificate of registration, (2) requiring the Member to appear before the Panel to be reprimanded, (3) requiring the Member to reimburse the College for funding provided to the Complainant under the program required under section 85.7 of the Code, and (4) requiring the Member to post security acceptable to the College in the amount of \$17,370.00 to guarantee the payment of any amounts the Member may be required to reimburse the College.

14. College counsel referred to the Panel's finding that the Member was concurrently involved in an Occupational Therapist-Client and an intimate relationship with the Complainant, and pointed out that certain aspects of the Panel's penalty order are mandatory in light of the finding of sexual abuse of a client in this case, which included sexual intercourse with the Complainant (namely, revocation of the Member's certificate of registration and reprimanding the Member).<sup>1</sup>

15. In addition, College counsel submitted that the Panel should exercise its discretion to require the Member to reimburse the College for funding for any therapy or counselling provided to the Complainant through the College's Patient Relations Program established in accordance with the Code, and to provide security for funding that therapy or counselling in the amount of \$17,370.00. Counsel submitted that requiring the Member to reimburse the College for funding

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<sup>1</sup> See s. 51(5) of the Code.

the therapy or counselling was essential to the College's public interest mandate and also to address the principles of specific and general deterrence. College counsel further submitted that although the Complainant had not sought therapy or counselling as of the time of the penalty and costs hearing, he has more than two years – until June 5, 2023 – to apply for funding for therapy. Moreover, College counsel submitted that the Complainant's statement describing the impact of the sexual abuse on him provided sufficient evidentiary foundation for the Panel to conclude that the Complainant may still seek therapy in the future.

16. It was College counsel's submission that the Panel should make an order under s. 53.1 of the Code,<sup>2</sup> requiring the Member to pay \$198,000 to the College. College counsel submitted that this amount was reasonable and fair having regard to all of the relevant factors. These include: the serious nature of the Panel's findings; the College's relative success on the merits; the nature, quality and conduct of the defence; the Member's failure to comply with College requirements and the principle that other members of the profession ought not to be overly burdened by the costs of these proceedings. College counsel further submitted that this amount (\$198,000) is consistent with what the Divisional Court has approved in recent decisions on costs.

17. In her oral submissions, College counsel focused on responding to the Panel's questions as set out in the letter to counsel attached as Appendix "A". In particular, in relation to:

- Question 1, College counsel submitted that absent the finding that the Member engaged in sexual abuse of a client (for example, if there were no finding that the Member was concurrently involved in an Occupational Therapist-Client and an intimate relationship with the Complainant), the Member nonetheless committed a serious boundary violation. The appropriate penalty order for the remaining two findings of professional misconduct (engaging in conduct that would reasonably be regarded by members of the profession as disgraceful, dishonourable and unprofessional and that would reasonably be regarded by members as conduct unbecoming an Occupational Therapist) would include either revocation or a lengthy (12 to 24 month) suspension of the Member's certificate of registration, and that if a suspension were ordered, there would be stringent terms and conditions requiring the Member to successfully complete recordkeeping and ethics courses prior to returning to practice. The College would seek neither a fine nor reimbursement for funding for any therapy or counselling provided to the Complainant. The College would, however, seek a significant costs order.
- Question 2, College counsel submitted that because the orders to be made by the Panel as to penalty and costs have different purposes, the Panel should not consider the global

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<sup>2</sup> Section 53.1 provides as follows:

**College's costs**

**53.1** In an appropriate case, a panel may make an order requiring a member who the panel finds has committed an act of professional misconduct or finds to be incompetent to pay all or part of the following costs and expenses:

1. The College's legal costs and expenses.
2. The College's costs and expenses incurred in investigating the matter.
3. The College's costs and expenses incurred in conducting the hearing.

impact of those orders on the Member. For example, the Panel should not reduce the amount of the costs award because of the penalty order includes a requirement that the Member provide security for funding for any therapy or counselling provided to the Complainant. It was her submission that to do so “would be unfair to Occupational Therapists who don’t sexually abuse their patients”.

- Question 4, College counsel submitted that the Member’s failure to accept the College’s offer to settle costs for \$55,000 should be a significant factor in the Panel’s assessment of the appropriate costs order to make in this case. The offer was made on July 27, 2020, after all of the College’s witnesses had testified and would have required the Member to accept findings in relation to the four allegations of professional misconduct set out in the Notice of Hearing. The College seeks an order reflecting what was termed the Member’s “significant responsibility” for the costs incurred by the College in this case.
- Question 5, College counsel informed the Panel that on further review, the College had identified entries totaling \$2,250 attributable to the College’s unsuccessful attempt to adduce expert opinion evidence from Mr. Ivany and that this amount could be subtracted from the College’s total recoverable costs of \$297,273.73.
- Question 6, College counsel submitted that the Court of Appeal’s decisions in the *Rosenberg*<sup>3</sup> and *Leering*<sup>4</sup> cases (both cited in the Member’s written costs submissions) contain language that is inconsistent with the more recent realization that there is no concept of a consensual relationship between a health practitioner and a client. In this case, there was no element of consent on the part of the Complainant, who had just been released from jail. He was very vulnerable.

18. The Member’s counsel’s written submissions on penalty recognized that revocation of the Member’s certificate of registration and reprimanding her are mandatory, given the Panel’s finding that the Member sexually abused a client. Consequently, the Member’s counsel focused on the College’s request that the Member be required to reimburse the College for funding for therapy or counselling provided to the Complainant and to post security to guarantee any such payments. The Member’s counsel stressed that the Panel has the discretion not to order the Member to reimburse the College or to post security and invited the Panel not to include those requirements in its penalty order.

19. It was the Member’s counsel’s submission that requiring the Member to post security for funding for therapy or counselling provided to the Complainant would be unreasonable, given that the Complainant has not sought counselling in the two and one-half years following his complaint to the College. Moreover, the Member’s counsel submitted, it is unclear whether therapy or counselling would be made available as health benefits through the Complainant’s employer or university. The Member provided affidavit evidence demonstrating that she is impecunious, and her counsel pointed out that the Member cooperated with the discipline process and had no discipline history prior to this matter.

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<sup>3</sup> *Rosenberg v. College of Physicians and Surgeons of Ontario*, 2006 CanLII 37118 (ON CA)

<sup>4</sup> *Leering v. College of Chiropractors of Ontario*, 2010 ONCA 87 (CanLII)

20. In both her written and oral submissions, the Member's counsel also referred to a debt owed by the Complainant to the Member pursuant to a small claims court decision dated March 23, 2020, a subject to which we will return under the heading, "The Panel's Analysis".

21. In her written submissions on costs, the Member's counsel agreed that the relevant factors were as described by the College.<sup>5</sup> She submitted, however, that the costs claimed by the College were excessive and that the Member should not have to bear costs resulting from what was asserted to be the College's failure to ensure that all of its witnesses were adequately prepared for a virtual hearing and its insistence on calling two unnecessary witnesses, Ms. Bik (a fact witness called by the College who was not cross-examined) and Mr. Ivany (the College's proposed expert witness). In submitting that the costs to be awarded to the College should be reduced, the Member's counsel also invited the Panel to take into consideration the profound impact that the investigation and prosecution have had on the Member, emotionally, psychologically, and financially. The Member has now lost everything. Her livelihood has been destroyed and her bright and promising future has vanished.

22. The Member's counsel began her oral submissions by describing the case as a tragedy. The Complainant never claimed that the Member's relationship with him was non-consensual, but revocation of her certificate of registration is mandatory. The goal of general deterrence has been met. The Member's employment at The Bridge and her relationship with the Complainant have destroyed her career and her prospects. The Member's counsel was frank in telling the Panel that in making her submissions, she was seeking compassion.

23. In her oral submissions, the Member's counsel addressed the Panel's questions as reflected in Appendix "A". By way of summary, with respect to

- Question 1, the Member's counsel submitted that absent the finding that the Member engaged in sexual abuse of a client for the reason assumed in College counsel's response to the same question, there would still be a boundary violation calling for a significant suspension of the Member's certificate of registration. The Member's counsel submitted that this suspension would be in the range of 10 to 12 months.
- Question 2, in submitting that the Panel could take into account the global impact of its penalty and costs orders, the Member's counsel informed the Panel that she is unaware of any authority for the proposition that the Panel cannot do so. Moreover, the reality is that the Member has no money. She now lives below the poverty line and has no prospects.
- Question 3, the Member's counsel emphasized that the Panel has the discretion not to require the Member to post any amount as security for funding for any therapy or counselling provided to the Complainant. The Member's counsel pointed out that to date, the Complainant has not sought any therapy or counselling and the College has not incurred any costs. It was her submission that the Member should not be required to post any security for that purpose.

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<sup>5</sup> See paragraph 16.

- Question 4, the Member’s counsel pointed out that the Member had the right to defend herself. In addition to capping the costs payable to the College, the College’s settlement offer would have required the Member to admit all of the allegations, including the sexual abuse allegation. The Member’s counsel contended that the College never tried to resolve the case on terms that could have been attractive to the Member.
- Question 6, the Member’s counsel rejected the College’s position that the Court of Appeal’s language in *Rosenberg* and *Leering* is out of date. Like *Rosenberg*, this is a “black letter, bright line case with a drastic outcome”. But the Panel can take into account the fact that the Member’s relationship with the Complainant was not predatory in nature. That is why it would be appropriate for the Panel to take a compassionate approach in its assessment of the costs to be awarded to the College.
- Question 7, the Member’s counsel could not comment on what would constitute an appropriate costs award in this case because the Member cannot commit to pay anything. The Member has no resources, and in fact the Complainant owes her money.

## V. The Panel’s Analysis

24. Consistent with the parties’ submissions and our independent counsel’s advice, the Panel understands that orders as to penalty and costs address different objectives and should be kept analytically distinct. Penalty orders have as their goal achieving general and specific deterrence, and, where appropriate, remediating the member’s practice, all within the context of serving and protecting the public interest. The purpose of costs orders is to at least partially indemnify the College for the costs associated with investigating complaints of professional misconduct and prosecuting and hearing the case, costs which would not have been incurred but for the Member’s professional misconduct. The rationale for indemnifying the College is that its members should not bear all of the expenses that have resulted from that professional misconduct.

25. As the parties’ counsel recognized in their submissions, revocation of the Member’s certificate of registration and reprimanding her are mandatory.<sup>6</sup> Consequently, the only disputed aspects of the penalty order sought by the College – and those within the Panel’s discretion – were the requirements that the Member (1) reimburse the College for funding provided to the Complainant under the program required under section 85.7 of the Code and (2) post security acceptable to the College in the amount of \$17,370.00 to guarantee the payment of any amounts the Member may be required to reimburse the College.

26. The Panel determined that it was appropriate to require the Member to reimburse the College for funding provided to the Complainant under the program required under section 85.7 of the Code and to post security acceptable to the College in the amount of \$17,370.00 for that

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<sup>6</sup> Code, s. 51(5). As has been discussed elsewhere in this document, even if there were no concurrent Occupational Therapist-Client and intimate relationships and revocation were not mandatory, both counsel recognized that the significant boundary violation in this case would have called for a suspension of the Member’s certificate of registration for a lengthy period.

purpose. The Panel's reasoning for doing so is as follows:

27. From the Complainant's impact statement, it is clear that the sexual abuse has had a negative impact on his own well-being and his relationships with others. His impact statement provided sufficient foundation for the conclusion that the Complainant may require therapy and counselling in the future. It is irrelevant that the Complainant has not yet applied for that funding; he is entitled to apply for funding for therapy through the fund until June 5, 2023, which is five years from the date that he became eligible for funding.

28. The Panel was very concerned that the Member lacks remorse and does not want to take responsibility for her actions. Instead, she continues to focus on the impact of the relationship with the Complainant on herself rather than on him. It is extremely important that the Member understand the very serious nature of her professional misconduct and the impact of the abuse on the Complainant. It is equally important that she recognize the Complainant's potential need for therapy or counselling in the future.

29. The Panel agreed with the College's position that it is vital to communicate to the public and to the profession that sexual abuse is taken very seriously and that members who commit sexual abuse should bear the cost for therapy and counselling for the Complainant rather than the general membership. Requiring Ms. Zubriski to bear the cost of the therapy or counselling will also deter other members of the College from engaging in this kind of professional misconduct.

30. For two reasons, the Panel rejected the argument that the Member should not be responsible for the cost of therapy or counselling to the Complainant because that cost could possibly be borne by employee or student benefits programs presently available to the Complainant. First and most important among them is that the Member must accept responsibility. It is because of her actions that therapy or counselling may be required. Second, it is speculative that any benefits that the Complainant might presently have through work or school will continue to be available when therapy or counselling might be required and sought.

31. The Member's counsel submitted that in determining whether to exercise its discretion to require the Member to reimburse the College for funding provided to the Complainant and to post security acceptable to the College in the amount of \$17,370.00, the Panel should take into account a debt owed by the Complainant to the Member pursuant to a small claims court decision dated March 23, 2020. The Panel did not take that debt into consideration.

32. Any debt owed as a result of the small claims court decision is irrelevant to this professional discipline hearing and whether the Member should be required to reimburse the College for meeting its obligation of providing therapy or counselling to the Complainant. The Panel also noted that the Member was deceptive in the way she represented herself during that court case. She did not disclose to the court that at the relevant time, she was the Complainant's occupational therapist. Had the Member displayed honesty and integrity with regard to this relationship, the outcome of the case may have been different.

33. The Panel also concluded that this is an appropriate case in which to require the Member to pay costs and that in the circumstances, it is fair and reasonable to require the Member to pay

\$196,000 in partial reimbursement of (1) the College's legal costs and expenses, (2) the costs and expenses incurred in investigating the matter, and (3) the College's costs and expenses incurred in conducting the hearing.

34. Once again, the Panel noted the Member's lack of remorse and failure to accept responsibility for her actions with regard to the abuse that she committed. Requiring the Member to contribute to the costs of the hearing imposes responsibility on her, where it rightly belongs. The costs order is not intended as a punishment, but is a method of sharing the costs of the hearing, which was necessitated by Member's professional misconduct. The object is to indemnify the College for the majority of the costs, which should not be the responsibility of the College's general membership, who practise with honesty, integrity and respect in their relationships with their clients and the public.

35. The Panel acknowledged that there were some technical issues initially with the virtual hearing and in particular, with the Complainant's internet connection; however, the issues were addressed as quickly as possible. Even with in-person hearings, delays can occur. In the context of the hearing as a whole, the technical issues did not cause an unreasonable delay warranting reduction in the costs to be awarded to the College.

36. However, the Panel agreed with the Member that any costs related to the College's proposed expert witness should be subtracted from the costs award to be made in the College's favour and this has been done. On the other hand, the Panel found that Ms. Bik's evidence was both relevant and important and the Panel therefore rejected the Member's argument that any costs related to Ms. Bik's testimony should be eliminated. Ms. Bik's evidence helped to establish that the Member was in concurrent Occupational Therapist-Client and intimate relationships with the Complainant.

37. The Panel also took into consideration the Member's rejection of the College's offer to settle presented to her on July 27 and 30, 2020. By that time, the Member knew that significant costs had already been incurred and that those costs would continue to rise as the hearing continued. The Member argued that the offer presented by the College was not reasonable, as it would require her to admit to all of the allegations, which she was not willing to do. Clearly, the Member had the right to reject the offer and to continue to defend herself. However, the Member's refusal has consequences in light of the College's success in proving the most serious allegations against her. In that light, the Panel did not accept that the College's settlement offer was unreasonable. The allegations were extremely serious in nature. They involved a profound violation of trust. In the context of the evidence the College had already led by the time of making the settlement offer and the College's mandate to serve and protect the public interest, the College's offer was reasonable. The College could not be expected to compromise by withdrawing the serious allegations that it eventually proved.

38. As to the scale or proportion of the College's cost that the Member should be required to indemnify the College, the Panel concluded that two-thirds of the College's actual costs is a reasonable guide to use. The Panel noted that the Divisional Court has supported this approach.<sup>7</sup>

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<sup>7</sup> *Bayfield v. College of Physiotherapists of Ontario*, 2014 ONSC 6570.

Applying this guide will result in different amounts being awarded, depending on the nature of the case and length of the particular hearing. As the Divisional Court has put it,

The [66 2/3] percentage was used as a guide, much like 60% is often used by judges in this Province as a guide for partial indemnity costs. Any difference arising from the length of the respective cases will be reflected in the actual costs and therefore will be compensated for when the percentage is applied.<sup>8</sup>

39. In her affidavit, the Member stated that “[the] complaint, investigation, and prosecution has (sic) had a profound emotional, psychological and financial impact on me.” The Member’s counsel has asked the Panel to take into account the Member’s inability to pay, stating that she has few financial resources and that her livelihood has been destroyed. The Member’s continued focus on herself and emphasis on the impact of the hearing and the Panel’s findings on her – both of which resulted from the Member’s professional misconduct – are extremely troubling. The Member’s continued failure to acknowledge or express remorse for the misconduct inherent in her intimate relationship with the Complainant and her apparent inability to appreciate how it impacted him are also troubling. With regard to the submission that the Member’s livelihood has been destroyed, the Panel noted that while she no longer has the ability to be an occupational therapist, she is not restricted in pursuing other avenues for employment.

40. The Member asked the Panel to take into account that the Complainant pursued the personal and sexual relationship with her. The Panel could not do so. It is irrelevant whether the Member was pursued or whether the relationship was consensual; it remains that responsibility of the regulated health professional to manage the client-therapist relationship and to address any boundary violations.

## VI. Conclusion

41. For these reasons, the Panel made the orders as to penalty and costs set out in paragraph 2, above.

**February 19, 2021**




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**Chairperson**

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<sup>8</sup> *Ibid.*, at para. 10, *per* Sachs J. In that case, the member admitted professional misconduct. A costs order in the amount of \$25,000 was upheld by the Divisional Court.

**Names of Panel members:**

Donna Barker, Chairperson  
Hunaida Abboud, Member  
Allan Freedman, Public Member  
Zuher Ismail, Member



# SSOT

Saskatchewan Society of  
Occupational Therapists

P.O. Box 9089 Saskatoon, SK S7K 7E7 Tel: (306) 956-7768

The Saskatchewan Society of Occupational Therapists (SSOT) Council announces the unanimous decision to divest the professional responsibilities of the Society. As of October 1, 2021, SSOT will no longer fulfill the role of a professional association. At that time, SSOT will move forward in a singular role as a regulatory body.

## Background Information

SSOT was initially created to act as a professional association in 1965 when there were approximately 14 Occupational Therapists practicing in Saskatchewan. In 1978, The Registered Occupational Therapists Act was proclaimed, and Saskatchewan became one of the first provinces in Canada to licence Occupational Therapists. In 1997, The Occupational Therapists Act, was proclaimed. This Act strengthened the regulation of occupational therapy practice in Saskatchewan in a consistent manner with other health care professional regulatory bodies/colleges in Saskatchewan. Although SSOT has operated as a dual-role organization by completing both regulatory body and professional association activities, SSOT has had a single mandate, which is to regulate Occupational Therapists in Saskatchewan for the protection of the public, since the proclamation of The Occupational Therapy Act in 1997.

## Why is SSOT Council making this decision?

For years, SSOT has been challenged with supporting the two roles of the Society with limited resources and at times, competing responsibilities. This has often led to some confusion as to the role of SSOT with respect to the membership and the public. With the increased need to demonstrate transparency, accountability, and regulatory effectiveness, SSOT has made this difficult decision to ensure that the resources and initiatives are properly allocated to the regulatory mandate to strive for regulatory excellence.

SSOT regulates and ensures competent practice of Occupational Therapy, to protect and serve the public interest. The mandate of SSOT is to protect clients' rights to safe, competent, and ethical care by supporting Occupational Therapists to maintain the standards of practice of the profession, and by holding them accountable for their conduct and practice. Self regulation for a profession means two things:

1. Occupational Therapists are involved in determining the rules that govern the profession (ex. being involved as Council members); and
2. Occupational Therapists are accountable for their own behaviour, with SSOT providing oversight.

Self-regulation for a health profession is a **privilege** – one that can be revoked if perceived as acting in the profession's self-interest. Acting as both a regulatory body and a professional association is a risk for SSOT that could result in losing the privilege of self-regulating the practice of Occupational Therapy in the province of Saskatchewan.

In addition, SSOT Council has been attending education sessions on regulatory best practices and have also been watching the trends and changes being made across the country, and around the world. Regulatory bodies across Canada are facing increased scrutiny and pressure to demonstrate the regulatory mandate and adhere to regulatory best practices.

In British Columbia, the report by Harry Cayton identified deficiencies with the dual role regulatory model and raised concerns that this model of regulation has allowed for promotion of the interests of professions over the interests of the public. An extensive public consultation process has led to recommendations to modernize the provincial health

profession regulatory framework, including the creation of “umbrella colleges” that will regulate the practice of multiple smaller health professions, including Occupational Therapy.

In Alberta, Bill 46 is bringing regulatory reform to the province. This bill will restrict the activities of regulatory colleges and includes a section that mandates the separation of colleges and professional associations. When this section of the bill comes into force, any college in Alberta also serving as a professional association will have 18 months to divest itself of its professional association functions.

Here in Saskatchewan, we have observed a trend of dual-function regulatory bodies transitioning to the singular function of regulation. Over the past 5 years, several dual-role organizations have made the decision to divest their professional association role and move forward with a single regulatory role, either now or in the near future. We anticipate that trend to continue and that the government may mandate that regulatory organizations shift to the sole function of regulation. In anticipation of those changes, we have decided to also make that transition.

### **What will be the role of SSOT moving forward?**

SSOT as it currently stands will maintain the regulatory role in the province with a focus on regulatory excellence. As the regulator, SSOT is accountable for public protection by ensuring members are competent. The Occupational Therapy Act, 1997 specifically directs our regulatory mandate including specifics on regulatory requirements for licensure, continuing competency of licensed members, and investigations/discipline processes. The regulatory role includes requiring OTs to meet the standards for practice in Saskatchewan, and acting when the standards are not met.

SSOT will continue:

- Setting registration requirements & issuing practice licences
- Monitoring adherence to SSOT Standards of Practice and Code of Ethics
- Establishing programs and guidelines that promote competent and ethical OT practice (e.g., Continuing Competency Program, practice guidelines)
- Responding to concerns raised about registrants’ practice through investigations and discipline processes
- Contributing to national OT core competency, and standards’ documents
- Collaborating with other OT regulatory bodies across Canada to improve labour mobility and regulatory consistencies
- Informing the public about such topics as qualifications for entry practice, registration requirements
- Publishing inter-provincial documents/agreements as appropriate (e.g., agreement on internal trade, memorandums of understanding)
- Assisting OTs in interpreting applicable public protection legislation, public health orders, regulatory and professional legislation, standards of practice and code of ethics
- Liaising with key stakeholders and other provincial health regulators.
- Other activities appropriate for a regulatory body/college to complete in order to protect and service the public interest.

### **What will happen to the professional activities of the Society?**

As has been shared with members, SSOT has been in conversations with the Canadian Association of Occupational Therapists (CAOT) for several years regarding the possibility of establishment of a CAOT chapter in Saskatchewan, which could take on the professional activities of the Society. CAOT is currently reviewing its chapter model framework, and SSOT has asked CAOT to consider Saskatchewan for this model once the review is complete.

### **Why October 2021?**

CAOT chapters are aligned with the CAOT fiscal year, which starts on October 1. The earliest date that a new chapter could be initiated is October 1, 2022. October 2021 – October 2022 could be a transition year, with both CAOT and SSOT supporting specific initiatives as capacity permits.

**What happens if CAOT decides not to implement a chapter model in SK in October 2022?**

If a chapter model is not implemented, there are other options that may be available to Occupational Therapists in Saskatchewan for professional representation. SSOT has been in conversation with OT professional associations across the Prairies, and amalgamation may be another option. The SSOT membership will be consulted with to determine the best course of action regarding the future professional association for occupational therapy in Saskatchewan.

**What will happen to professional contracts/agreements between SSOT and other stakeholders?**

Professional agreements/contracts will be maintained until another appropriate organization is able to take them over. All organizations that have an agreement with SSOT regarding a professional association activity will be contacted to determine a plan on an individual basis. All other professional association activities will be discontinued.

**What will happen to the current initiatives of the more professional-oriented committees?**

SSOT Council will review the current strategic plan and will identify which tasks will continue during this year and will identify which committees will be placed on hold for the remainder of the year. For example, professional committees with no chairperson or no members will be placed on hold. Any current initiatives will be followed through to completion.

**Will this cost members more money?**

SSOT registration and licensing fees will remain the same for the current time. Membership in a professional association will be optional, and the fee for this membership will be set by the organization.

**Will SSOT staffing duties or hours change?**

As always, SSOT Council along with the Human Resources (HR) Committee will continue to assess the volunteer and staff duties and will make decisions as needed. Currently, the HR Committee members are assessing the significant responsibility and increasing demands of the volunteer Registrar position and considering which duties may be able to be shift to the Executive Director and/or staff.

**What about the money SSOT has saved from professional activities and conferences?**

SSOT currently has specific “professional” funds (revenue from previous CAOT Conference, etc) in a GIC. If CAOT sets up a chapter model in SK, these funds will be provided to the new chapter as they were intended to be used for professional activities for Occupational Therapists in Saskatchewan.

We know that you will have questions. You are invited to attend an information session with SSOT Council, CAOT, and other stakeholders on March 11<sup>th</sup> at 7:30 pm. Additional questions regarding this decision can be directed to Jeanette McNalty, President ([president@ssot.sk.ca](mailto:president@ssot.sk.ca)) or Sherry Just, Executive Director ([ed@ssot.sk.ca](mailto:ed@ssot.sk.ca)).



Jeanette McNalty, President  
Saskatchewan Society of Occupational Therapists  
on behalf of the Council