



March 27, 2017

Clarification of Proposed Bylaw Amendments Part 16 Information to be Provided by Registrants

On March 21, 2017, the College launched a consultation on proposed bylaw amendments. We have had a tremendous response to the consultation and thank all who have taken the time to share their thoughts.

We have received many questions and comments regarding the proposed amendment to Part 16 - Information to Be Provided by Registrants and realize we need to provide clarification about the proposed changes, which would:

- allow the College to expressly ask for information about mental or physical conditions or disorders which may affect their ability to practise occupational therapy safely.
- require OTs to report any change to this information within 30 days of the occurrence.

Intention

- The intention of this proposed amendment is not to require OTs to report information relating to their health status that has no impact on their ability to practise safely.
- The intention of this amendment is to help the College fulfill its public protection mandate. The onus to ensure that OTs put appropriate safeguards in place respecting their practice should they have a mental or physical condition or disorder that may affect their ability to practise safely has been, and will remain, on every OT.
- As regulated health professionals, OTs have self-reporting obligations. Employers and colleagues of OTs have mandatory reporting obligations. These are all requirements under the College's governing legislation (the RHPA and *Occupational Therapy Act, 1991*). When an OT self-reports with respect to health issues, invariably such self-report demonstrates that the OT has insight into the condition. In the vast majority of cases, the OT has already fulfilled their professional responsibility by putting in place necessary safeguards and therefore, regulatory action is not required. However, when the information is received from a third-party source (likely because it has started to impact the OT's practice), the College is often required to take some action to ensure the public is protected.



- Requesting information from OTs is not intended to be punitive. Any information obtained by the College respecting an OT's health status is confidential and will remain so until there is a referral made to the Fitness to Practise Committee. If the Fitness to Practise Committee, after a hearing, makes a finding of incapacity and subsequently imposes an Order (usually terms, conditions and limitations requiring treatment and monitoring), then minimal information relating to the terms, conditions and limitations will become publicly available on that OT's profile in the public register. It is worth noting that in the history of the College, there has never been a Fitness to Practise hearing.
- The primary concern of the College is the impact a particular physical or mental condition or disorder has on the OT's ability to safely practise occupational therapy. We understand that the same condition or disorder can affect one person differently than another. If an applicant or OT provides information to the College that they have a physical or mental condition or disorder which may affect their ability to practise safely, but at the same time provides information to demonstrate they are managing their health appropriately (such that it is not or will not affect client safety and their ability to provide competent care), then there is unlikely to be any regulatory impact. When dealing with this type of information, the College always endeavours to be respectful and fair.
- The College's role is different than the role of an employer and under the RHPA, the College has the right to seek and obtain information about registrants' health conditions that goes beyond what an employer is entitled to know. The reason for this is because of the public protection mandate on the College. A regulator's authority and obligations to protect the public under the RHPA also takes precedence over the confidentiality of health records.

Role of College

The College regulates the practice of occupational therapy and in carrying out that function, it has a duty to serve and protect the public interest. One of the ways we fulfil this mandate is by assessing all applicants to ensure they meet registration requirements. Once registered with us, we have an ongoing duty to ensure the public interest is protected and that OTs continue to meet the College's standards and expectations.

The College's governing legislation provides that if the Registrar believes an OT may be "incapacitated" then the Registrar must make appropriate inquiries the results of which



must be reported to the Inquiries, Complaints and Reports Committee (ICRC). The legislation defines “incapacitated” as follows:

“incapacitated” means, in relation to a member, that the member is suffering from a physical or mental condition or disorder that makes it desirable in the interest of the public that the member’s certificate of registration be subject to terms, conditions or limitations, or that the member no longer be permitted to practise¹

You can learn more about College processes, Committees and referrals on our website at <https://www.coto.org/quality-practice/professional-conduct>.

Feedback

We hope this information helps clarify the nature of the proposed amendments to Part 16. Please continue to provide your feedback to us and contact us with any questions at 1.800.890.6570/416.214.1177 or consultations@coto.org.

¹ See section 1(1) of the *Health Professions Procedural Code*, which is schedule 2 to [the Regulated Health Professions Act, 1991](#).