



Determining Suitability to Practise at Registration

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Established: March 2017

Effective: April 1, 2017

Revised: June 2, 2017

Approved by: Registration Committee

Purpose:

The purpose of this policy is:

- to describe the process the College of Occupational Therapists of Ontario (the “College”) uses to evaluate information about an applicant’s suitability to practise; and,
- to identify the criteria that the College uses when conducting such an evaluation;

Principles:

One of the ways that the College ensures that members of the public receive safe and ethical services from occupational therapists (OTs) is by ensuring that all applicants for registration are suitable to practise the profession.

Suitability to practise is broadly defined and includes an applicant’s conduct and character, such as previous findings of professional misconduct, or being found guilty of a criminal offence. Suitability to practise also includes determining whether an applicant has a physical or mental condition or disorder that could affect their ability to practise safely.

Applicants to the College are required to answer several questions pertaining to their suitability to practise on the registration application form. Applicants are also required to submit the results of a Vulnerable Sector Check as part of their application to the College.

Suitability to practise is an ongoing expectation of members of the College. Once registered, OTs are required to make declarations about their suitability to practise during the annual membership renewal process (and/or within 30 days of an issue occurring).

Applicable to:

This policy applies to all applicants for all classes of registration with the College.

Applicable Legislation:

From Ontario Regulation 226/96: General, under the *Occupational Therapy Act, 1991*:

35. (1) The following are registration requirements for a certificate of registration of any class:



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1. The applicant must provide evidence as to whether he or she has been found guilty of any offence arising in any jurisdiction, including,
 - any criminal offence, or
 - any offence relating to the practice of occupational therapy.
2. Where the applicant has been registered or licensed in Ontario in another profession or in another jurisdiction in occupational therapy or another profession, the applicant must provide evidence as to whether he or she has been the subject of a finding of professional misconduct, incompetence or incapacity or a similar finding.
3. Where the applicant is registered in Ontario in another profession or is registered or licensed in another jurisdiction in occupational therapy or another profession, the applicant must provide evidence as to whether he or she is the subject of any current professional misconduct, incompetence or incapacity proceeding or a similar proceeding.
4. Nothing in the applicant's previous conduct affords reasonable grounds for the belief that he or she will not practise occupational therapy safely and ethically.

Type of Requirement:

This is an exemptible requirement. This means that if an applicant does not meet the requirement, the College has some discretion in determining whether the applicant should be registered, or registered with terms, conditions or limitations.

Possible Outcomes:

Possible decisions may include those available under the Health Professions Procedural Code, being Schedule 2 to the *Regulated Health Professions Act, 1991*:

1. issue a certificate of registration;
2. issue a certificate of registration if the applicant successfully completes required examinations;
3. issue a certificate of registration if the applicant successfully completes additional specified training;
4. issue a certificate of registration with terms, conditions, or limitations;
5. issue a certificate of registration if the applicant enters into an undertaking with the College that is acceptable to the Registration Committee; or
6. refuse to issue a certificate of registration.



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Procedure:

1. The Registrar considers the suitability to practise of every applicant but may initiate a more detailed review of an applicant's suitability to practise in cases where:
 - an applicant answers "yes" to any question in the suitability to practise section of the application form; and/or
 - when a confirmation of an applicant's registration in relation to any profession, in any jurisdiction, indicates a finding or current proceeding of professional misconduct, incompetency, or incapacity; and/or
 - when results of a Vulnerable Sector Check are not 'clear' and/or
 - information comes to the College's attention that suggests that something in the applicant's past may afford reasonable grounds for the belief that the applicant will not practise occupational therapy safely and ethically.
2. If the Registrar has reasonable doubts about the applicant's suitability to practise, the applicant will be notified in writing that the Registrar has referred the application to the Registration Committee for review and decision. The applicant will be provided with a period of at least 30 days to make submissions, including providing any supporting documentation, to the Registration Committee. The onus is on the applicant to prove that their conduct, character, physical or mental condition or disorder do not make them unsuitable to practise.
3. During the application process, or upon receiving written notification that the application has been referred to the Registration Committee, the applicant may submit any supporting documentation they feel is relevant. Some examples include:
 - A personal statement describing the incident(s), and an explanation as to whether the incident(s) currently impacts the applicant's ability to practise safely and ethically;
 - Official copies of any court documents, police records, discharges, pardons etc. (official copies of these types of documents must be sent directly to the College from the proper authority);
 - Evidence of successful completion of any rehabilitation or remediation imposed by a court or other regulatory body;



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- Letters of reference from employers or colleagues who are aware of the facts of the matter;
 - Letters from health care providers who are/were engaged in treating the applicant, providing their professional opinion on the applicant's capacity to practice.
4. The documentation submitted by the applicant will form the material to be reviewed by the Registration Committee before a decision on registration is made. Should the applicant find that additional time is needed to arrange for supporting documentation to be sent to the College, the applicant must contact the College directly to request an extension.
 5. In some instances, for example, where it appears the applicant may have had a previous interaction with the criminal justice system, the College itself may obtain the information or documentation if the applicant is unable or unwilling to provide the relevant material.
 6. Decisions are made in the public interest. When undertaking a review, the Registration Committee will consider each application on a case by case basis, and will consider all the information provided. Should the Committee find that additional information or clarification of any information is necessary before a decision can be reached, the Committee will notify the applicant in writing. The applicant will then be given a period of additional time to supply the requested information, documentation or clarification.
 7. The Committee will examine several factors associated with the applicant's suitability to practise, which may include, but are not limited to:
 - a) The nature of the conduct and/or physical or mental condition or disorder in question:
 - seriousness;
 - duration and frequency;
 - how long ago the incident(s) occurred;
 - degree of dishonesty or breach of trust;
 - motivation of the applicant;
 - whether the behaviour or condition was or is isolated or recurring;
 - whether there were any mitigating or aggravating circumstances;



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- intoxication or impairment;
 - issues related to physical or mental capacity;
 - how the conduct and/or condition is relevant to professional practice; and
 - impact on public safety when providing occupational therapy services.
- b) Honesty and willingness of the applicant:
- did the applicant answer the suitability to practice questions honestly; or
 - did the College learn of the applicant's prior conduct and/or condition by some other means, for example, from another regulatory body, or through the results of the Vulnerable Sector Check?
 - did the applicant submit the requested documents?
- c) Resulting actions taken by the applicant
- was there any remediation or rehabilitation taken by the applicant;
 - was there an expression of remorse from the applicant;
 - does the applicant show insight; and,
 - was the applicant able to subsequently practise occupational therapy following the incident(s)/onset of the condition with no further evidence of issues related to their ability to practise safely and ethically?
8. Applicants will be provided with a written decision from the Registration Committee setting out both the decision and the reasons.
9. All decisions of the Registration Committee may be appealed by the applicant to the Health Professions Appeal and Review Board (HPARB) within 30 days of receiving the written notification from the Registration Committee.