



Preamble

Occupational therapy is a self-governing health profession in Ontario under the *Regulated Health Professions Act, 1991* (RHPA). Under the RHPA, it is the duty of the Minister of Health to ensure that health professions are regulated and coordinated in the public interest. The College of Occupational Therapists of Ontario was established by the *Occupational Therapy Act, 1991* to regulate the profession. The College has a duty to serve and protect the public interest. The RHPA and the Occupational Therapy Act, combined with the Health Professions Procedural Code (being schedule 2 of the RHPA, herein “The Code”) are collectively referred to in this document as “the Legislation.”

The activities of the College are subject to a number of oversight mechanisms including both general and specific oversight by the Ontario Ministry of Health and specific oversight by the Health Professions Appeal and Review Board (HPARB), the Health Professions Regulatory Advisory Council, the Fairness Commissioner of Ontario and the Courts.

In the course of fulfilling its mandate, the College may collect, use and disclose personal information regarding applicants for registration, registrants, registrants’ clients and persons employed, retained, elected or appointed for the purpose of the administration of the Legislation and, occasionally, members of the public. The personal information being collected is critical to the College’s ability to effectively regulate the profession in the public interest.

Individuals who are employed, retained or appointed by the College as well as every member of College Council or a College committee are required by section 36(1) of the RHPA to maintain confidentiality with respect to all information that comes to their knowledge. Individuals who breach this provision face fines of up to \$25,000 for a first-time offence and up to \$50,000 for a second or subsequent offence¹. In addition, personal information handled by the College is subject to the provisions of this Privacy Code.

The College’s collection use and disclosure of personal information in the course of carrying out its regulatory activities are done for the purpose of regulating the profession in the public interest. These regulatory activities are not of a commercial character. Accordingly, the performance of the College of its statutory duties is not covered by federal privacy legislation. The College has adopted this Privacy Code voluntarily to provide a mechanism through which the College can provide appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its mandate.

¹ See the *Regulated Health Professions Act (RHPA) 1991*, Section 36(1)

Principle 1 – Accountability

The Registrar² is accountable for compliance with these policies and procedures. Concerns or questions regarding the manner in which personal information is being handled by the College should be directed to the Registrar who can be reached at: info@coto.org

The College's orientation and training of all new employees and appointees as well as all members of Council, committees or working groups and staff includes instructions on safe information transmission, retention and destruction. Refresher training is also provided.

The College's Privacy Code is also available on request by phone at 1-800-890-6570, email at info@coto.org, or by mail to 20 Bay St. Suite 900, Toronto, ON M5J 2N8.

Principle 2 – Identifying Purposes

The purpose for which the College collects, uses and discloses personal information is to administer and enforce the Legislation. Examples are included below.

Information about Registrants

The College collects and uses personal information regarding its registrants for the following purposes:

- to assess whether a registrant continues to meet the standards of qualification for a certificate of registration;
- to investigate complaints regarding the conduct or actions of a registrant of the College;
- to investigate reports filed about the conduct or actions of a registrant of the College;
- to investigate whether a registrant has committed an act of professional misconduct or is incompetent and to resolve such matters including through the imposition of a specified continuing education or remedial program (SCERP) and through undertakings;
- to inquire into whether a registrant is incapacitated;
- to negotiate and implement resolutions, including acknowledgements and undertakings and specified continuing education and remediation programs that provide for reviewing samples of client records;
- to hold a hearing of allegations of a registrant's professional misconduct or incompetence or of allegations that a registrant is incapacitated;

² In this document a reference to the "Registrar" includes a person designated by the Registrar to perform functions under the Privacy Code.

- to carry out the quality assurance program of the College, including an assessment of the records and practice of its registrants;
- to provide practice advice or information about the expectations of registrants;
- to administer the program established by the College to provide funding for therapy and counselling and other related expenses for persons who, while clients, were sexually abused by registrants of the College;
- to assess whether a former registrant's certificate of registration should be reinstated;
- to provide statistical information for human resource planning and demographic and research studies for regulatory purposes including providing that information to the Ministry of Health and other appropriate agencies;
- to provide information about registrants to the public for regulatory purposes on the public register which is located on the College's website; and,
- to administer or enforce the Legislation.

The College may collect personal information regarding a registrant from the registrant, employers and colleagues of the registrant, clients of the registrant, and other persons, for the purposes set out above. Personal information regarding registrants is collected by the College from time to time and at regular intervals.

The College discloses personal information regarding its registrants only as permitted by section 36 of the RHPA, as required by law, or as set out in its bylaws. For example, the College is required under the Code to maintain a register containing information about its registrants. Such information includes, but is not restricted to:

- a. Registrants' qualifications and practice information;
- b. On or after January 1, 2016, details of the Registrant's registration, membership or licensure with any other regulatory body inside or outside of Ontario;
- c. Details of allegations of professional misconduct or incompetence that have been referred to the Discipline Committee and not yet decided, including the date the referral and the status of the hearing;
- d. If an allegation of incapacity against the registrant has been referred to the Fitness to Practise Committee and not yet decided, an indication of the referral, and the date of referral;
- e. Details of a finding of professional misconduct or incompetence or similar finding that has been made in or outside of Ontario by any other regulatory body on or after January 1, 2016 that has not been reversed on appeal or judicial review;

- f. Details of a finding of incapacity or similar finding made in or outside of Ontario by any other regulatory body on or after January 1, 2016 that has not been reversed on appeal or judicial review;
- g. Where a decision referred in paragraph (e) above or (f) is not available to the public in the originating jurisdiction, the information referred to in paragraph (e) or (f) may be removed from the register upon the written request of the Registrant if the Registrar believes there is no public interest served in maintaining the information on the register;
- h. Details of any finding of guilt made by a court or other lawful authority (unless it has been reversed on appeal or judicial review), made on or after January 1, 2016, in respect of:
 - A criminal offence;
 - Any offence relating to the prescribing, compounding, dispensing, selling or administering of drugs; or
 - Any offence that relates to the Registrant's practice of occupational therapy.
- i. Details of any existing conditions or restrictions (such as bail conditions) imposed by a court or other lawful authority that relate to or otherwise impact the Registrant's practice, except if the publication of such information would violate any publication ban known to the College;
- j. Details of any pending reinstatement applications/hearings;
- k. Details of a complaint filed, or report received, on or after January 12, 2017, where the Registrant is required to appear before a panel of the Inquiries, Complaints and Reports Committee (ICRC) to be cautioned in person;
- l. Details of a complaint or a report received on or after January 1 2017, where a Registrant is required by a panel of ICRC to complete a specified continuing education or remedial program (SCERP);
- m. Details of a complaint filed, or a report received, on or after January 1 2017, where a Registrant is required by a panel of the ICRC to enter an undertaking with the College.

The Code and the bylaws require the College to post the register on the College's website.

Information about Employers, Colleagues and Clients

The College collects and uses personal information regarding the employers, colleagues and clients of registrants of the College for the following purposes:

- to investigate complaints regarding the conduct or actions of a registrant of the College;

- to investigate whether a registrant has committed an act of professional misconduct or is incompetent;
- to inquire into whether a registrant is incapacitated;
- to hold a hearing of allegations of a registrant's professional misconduct or incompetence or of allegations that a registrant is incapacitated;
- to negotiate and implement resolutions, including acknowledgements and undertakings or specified continuing education and remediation programs that provide for reviewing samples of client records;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its registrants;
- to administer the program established by the College to provide funding for therapy and counselling for persons who, while clients, were sexually abused by registrants of the College;
- to investigate reports filed about registrants of the College under the Code;
- to assess whether a registrant continues to meet the standards of qualification for a certificate of registration;
- to assess whether a former registrant's certificate of registration should be reinstated;
- to provide information about registrants to the public for regulatory purposes such as public register information and information about discipline hearings;
- to administer or enforce the Legislation.

The College may collect personal information regarding an employer, colleague and client of a registrant of the College from the employer, the colleague, the client, the registrant and other persons, for the purposes set out above.

The College discloses personal information regarding the employers, colleagues, clients of registrants of the College only as permitted by section 36 of the RHPA or as required by law. For example, hearings of the Discipline Committee are required, subject to certain exceptions, to be open to the public. Evidence at a hearing of the Discipline Committee may include personal information regarding the registrant of the College who is the subject of the allegation of professional misconduct or incompetence, as well as personal information regarding the registrant's clients related to the allegations of professional misconduct or incompetence. Another example of disclosure of personal information about clients of registrants of the College relates to complaints regarding the conduct or actions of registrants of the College. Where a complainant, who is frequently a client of a registrant, or a registrant does not agree with a decision of the ICRC, subject to certain exceptions, either person can request a review by HPARB. The Code requires that the College disclose to the HPARB a record of the investigation and the documents and things upon which the decision was based. This disclosure of personal information about a client of a registrant to the HPARB is required under the Code.

Information about Applicants for Registration and Potential Registrants

The College collects and uses personal information regarding applicants and potential registrants and the clients of applicants and potential registrants to assess whether an applicant or potential registrant meets, and continues to meet, the standards of qualification to be issued a certificate of registration and to administer or enforce the Legislation. The College discloses personal information regarding applicants and potential registrants, references about them and their clients only as permitted by Section 36 of the RHPA or as required by law. For example, the Code provides a procedure for an applicant who does not agree with a decision of the Registration Committee to request a review or a hearing by HPARB. The Code requires that the College disclose to HPARB a copy of the order and reasons of the Registration Committee and the documents and things upon which the decision was based. This disclosure of personal information to HPARB is required under the Code.

Information related to Unauthorized Practice and Holding Out

The College collects and uses personal information regarding individuals who may be practising the profession of Occupational Therapy, using protected titles or holding themselves out as practising the profession and their clients to investigate whether the individual has contravened or is contravening the Legislation and to administer or enforce the Legislation. The College discloses personal information regarding such individuals only as permitted by section 36 of the RHPA or as required by law.

Information related to Administering the Legislation

The College collects and uses personal information regarding individuals who are retained, elected or appointed for the purposes of:

- to review prospective candidates and retain or appoint persons for the purpose of the administration of Occupational Therapy Act;
- to maintain records to ensure accurate remuneration and payment of expenses, and all documentation required by law and by the various levels of government in accordance with sound accounting practices;
- to communicate with the person (e.g., home contact information);
- to maintain accurate and fair accounts of any disputes, possible conflicts of interest or misconduct involving a person retained or appointed for the purpose of the administration of the Occupational Therapy Act or a member of the Council or committee of the College;
- for purpose of making payments and providing benefits.

The College discloses personal information regarding the individuals referred to above only as permitted by section 36 of the RHPA or as required by law.

Information about Members of the Public

As noted above, the College sometimes collects personal information about members of the public, such as clients or witnesses. The College sometimes also collects information about members of the public who participate in College processes. For example, persons who participate in College consultation activities, such as making submissions on proposed regulations, bylaws or policies, may be identified at least internally. Similarly, persons who attend Council meetings or discipline hearings that are held in public may have information collected for administrative or security purposes and may be visible or audible to others in attendance including through video or audio conferencing. If a person requests access to personal information about themselves (see Principle 9 – Individual Access), the College will require proof of their identity before releasing the information.

Specifying the Identified Purpose

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected, either at the time of collection or after collection but before use, except where to do so would defeat the purpose of the Legislation or be inconsistent with this.

The College will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.

Where personal information is collected for one purpose, the College has the right to use and disclose the information for another regulatory purpose where it is in the public interest to do so. For example, the ICRC will receive all information, documents and reports concerning a registrant, no matter what the originating source. Further, the ICRC is required to review and consider the prior history (i.e. previous complaints or reports), including prior decisions dismissing a complaint or concern. In certain situations, the complainant may also obtain access to the registrant's prior history.

Principle 3 – Consent

The College collects personal information for purposes related to its regulatory goals including for the purpose of the proper administration and enforcement of the Legislation and for other related regulatory purposes.

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected as described in Principle 2. However, obtaining consent of the individuals would, in many cases, defeat the purposes of the College's collecting, using and disclosing the personal information. Personal information will only be collected, used and disclosed without the knowledge and consent of the individual for the purpose of the administration or enforcement of the Legislation and in accordance with any applicable provisions of the this. For example, personal information about a client may be collected and used without the client's consent for the purpose of the College's quality assurance program regarding the assessment of a registrant's practice in accordance with the Code and any regulations made thereunder. Another example is that personal information about a client may be collected and used without the client's consent for the purpose of an

investigation of a registrant in accordance with the Code and any regulations made thereunder.

Principle 4 – Limiting Collection

The College collects only the personal information that is required for the purposes identified in Principle 2 of this Privacy Code. The College collects personal information using procedures that are fair and lawful.

Personal information regarding clients must be collected as part of the College's regulatory function. This information is typically obtained by the College as part of an investigation or quality assurance program. The focus of these inquiries is the conduct, competence or capacity of the registrant and the protection of the public. The College only collects personal information regarding clients to satisfy this regulatory purpose.

Principle 5 – Limiting Use, Disclosure or Retention

The College uses personal information only for the purposes identified in Principle 2 and in accordance with the provisions of the Legislation. Personal information is only disclosed in accordance with the provisions of section 36 of the RHPA or as required by law.

The Code and bylaws clearly designate the information regarding registrants that is publicly available and the bylaws can be accessed from the College website at www.coto.org or by contacting the College at 20 Bay St., Suite 900, Toronto, ON M5J 2N8. In addition, the College is required to publish certain information regarding discipline hearings conducted by the Discipline Committee.

Under the Code, discipline hearings conducted by the Discipline Committee are usually open to the public. Evidence at a discipline hearing may include personal information regarding the registrant and the registrant's clients, employers and colleagues related to allegations of professional misconduct or incompetence. Where feasible, the College may anonymize the information before it is used in a proceeding, particularly one that is open to the public. Under the Code, the panel of the Discipline Committee has discretion to close a hearing under certain prescribed circumstances and/or restrict the publication of personal information where appropriate. Reviews of decisions of the ICRC and Registration Committee by HPARB are open to the public. Similarly, HPARB discretion to restrict the disclosure of personal information in its review process. The objective of these regulatory processes is always the protection of the public in a transparent way. As noted above, participants in a public council meeting or hearing at the College may be seen and heard by others including through audio and video platforms (e.g., Zoom).

The College has a record retention policy in place and conducts audits to ensure that personal information that is no longer required to be kept is destroyed, erased or made anonymous. Specific information regarding the record retention policy can be obtained by contacting the Registrar at the College.

Principle 6 – Accuracy

It is in the best interest of the public that the College collects, uses and discloses only accurate personal information in regulating the profession. The College therefore uses its best efforts to ensure that the information it collects, uses and discloses is accurate. However, in order to be accountable for its collection, use and disclosure of information, the College makes corrections to information without obliterating the original entry.

Registrants are required to provide the College with information required under the bylaws including their demographic and practice information and details of their conduct.

The registrants are required to advise the College within thirty (30) days of any change to their personal information. This information is also updated annually when registrants renew their registration with the College. If someone is aware that a registrant's information is not accurate, we encourage them to contact us.

Principle 7 – Safeguards

The College ensures that personal information it holds is secure.

The College ensures that personal information is stored in electronic and physical files that are secure. Security measures are in place to safeguard this information which include restricting access to personal information to authorized personnel, ensuring that physical files are under lock and key and ensuring that electronic files are password protected. The College reviews its security measures periodically to ensure that all personal information is secure.

As noted above, the College provides orientation and ongoing training regarding the information safeguards required for personal information and their importance.

The College ensures that personal information that is no longer required to be retained is disposed of in a confidential and secure fashion (i.e. shredding).

From time to time, the College uses external service providers. These service providers may store data outside of Canada. The College reviews the security measures used by these service providers to ensure that appropriate safeguards are in place.

Principle 8 - Openness

The College's Privacy Code is available to the public and its registrants via the College's website at: www.coto.org or can be requested by phone at 1-800-890-6570, email at info@coto.org, or by mail to 20 Bay St. Suite 900, Toronto, ON M5J 2N8. Inquiries concerning the College's policies and practices for collecting, using and disclosing personal information may be directed to the Registrar at: info@coto.org

Principle 9 - Information Access

Access

Where the College holds personal information about an individual, upon written request, the College shall allow access to the information to that individual, unless providing access could reasonably be expected to interfere with the administration or enforcement of the Legislation or it is impracticable or impossible for the College to retrieve the information.

Examples of situations where access may be denied include:

- Information contains references to another individual(s) that cannot be severed;
- Disclosure may result in significant risk of harm to the requestor or a third party;
- Information was collected or created during an investigation, inquiry, assessment or similar procedure;
- Disclosure may defeat the purposes for which the information was collected;
- Information cannot be disclosed for legal, security or commercial proprietary reasons;
- Information is subject to solicitor-client or other privilege;
- Information was generated during a dispute or resolution process;
- Information is retained for archival reasons (e.g., contributions to the development of a legislative amendment or policy); and,
- The request is frivolous, vexatious, made in bad faith or otherwise an abuse of process.

In cases where the personal information forms part of a record created by another organization, the College may refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may obtain access to the personal information from the organization rather than the College.

Subject to the same exceptions as described above, the College will also provide a list of organizations to which the College has provided personal information when requested to do so by the individual.

While the College's response will typically be within 30 days and provided at no cost or minimal cost to the individual, depending on the nature of the request and the amount of information involved, timelines may be exceeded and the College reserves the right to impose a cost recovery fee. In these circumstances, the College will inform the individual of the approximate cost to provide the response and proceed upon payment by the individual of the cost.

The College will make reasonable efforts to respond to the request within thirty days and to assist the individual to understand the information.

Individuals should send their written request for access, with contact information and sufficient information about themselves to identify them, to the Registrar at: info@coto.org.

In the event the College refuses to provide access to all of the personal information it holds, then the College will provide reasons for denying access, except in circumstances where the provisions of such reasons may compromise the ability of the College to administer or enforce the Legislation. The individual may then choose to file a complaint with the Registrar.

Questioning Accuracy and Completeness of Personal Information

An individual has the right to request a correction of what in their view, is erroneous information. Where the information forms part of a record created by another organization, then the College may refer the individual to the organization that created the record (unless it is inappropriate to do so) so that the individual may question the accuracy or completeness of the information.

Where an individual can successfully demonstrate that the personal information of a factual nature (not, for example, the expression of an opinion) is inaccurate or incomplete, the College will amend the information (i.e., correct, or add information). In addition, where appropriate, the College will notify any third parties to whom the College has disclosed the erroneous information. In some cases, a correction may be inappropriate (e.g., where the fact that a person made such a statement is the primary focus of the record rather than whether the statement is, in fact, accurate).

Where there is a dispute between the individual and the College as to the accuracy or completeness of the information, then the College will document the details of the disagreement, and, where appropriate, will advise any third party who received the contested information from the College, of the unresolved disagreement.

Principle 10 - Questioning compliance

Complaints or questions regarding the College's compliance with this Privacy Code should be directed to the Registrar who can be reached at: info@coto.org.

Upon receipt of a concern, the Registrar will initiate a review of the concern that includes:

- Acknowledging the concern;
- Reviewing the expressed concern considering this Privacy Code, relevant statutes, other relevant College policies or procedures and any extenuating circumstances that may apply;
- Providing a written decision and reasons to the complainant or the individual who identified the concern; and Informing them of the outcome; and,
- Taking the appropriate measures if/when the concern is found to be justified.

If the Registrar cannot satisfactorily resolve a complaint, the next stage in the College's formal challenging compliance procedure permits a privacy concern to be made to and reviewed by the College's Senior Leadership Team or Executive Committee. Upon receipt of a concern that has not been satisfactorily resolved by the Registrar, the

College's senior leadership team or Executive Committee will initiate a review of the concern that includes:

- Acknowledging the concern;
- Reviewing the expressed concern considering this Privacy Code, relevant statutes, other relevant College policies or procedures, any extenuating circumstances that apply and the previous review of the matter by the Registrar;
- Providing a written decision and reasons to the complainant; and,
- Taking appropriate measures where the concern is found to be justified.

The decision of the College's senior leadership team or Executive Committee is final.

Please note that there is a different process for handling complaints about the conduct or actions of a registrant of the College. Please contact Aoife Coghlan, Manager, Investigations and Resolutions via email at acoghlan@coto.org if you wish to file a complaint about the conduct or actions of a registrant of the College. If you require accommodations to engage with the College regarding a complaint or this privacy policy, please contact the Registrar, Elinor Larney at elarney@coto.org.