

Declaration of Conflict of Interest

All Directors have a duty to act solely in the best interest of the College, consistent with the mandate of the College to act in the public interest, and to maintain the trust and confidence of the public in the integrity of the decision-making processes of the Board. To this end, they must avoid or resolve conflicts of interests while performing their duties for the College and to recuse themselves from any consideration of the matter at issue.

A conflict of interest exists where a reasonable member of the public would conclude that a Director's personal, professional or financial interest, relationship or affiliation may affect their judgment or the discharge of their duties to the College. A conflict of interest may be real or perceived, actual or potential, direct or indirect.

For the **Board Meeting of October 24, 2024** Directors as listed below have indicated they are in compliance with the College's Conflict of Interest Policy and no conflicts were declared.

Stacey Anderson

Neelam Bal

Mary Egan

Elizabeth Gartner

Sarah Milton

Tina Siemens

Allan Freedman

BOARD MEETING AGENDA

DATE: Thursday, October 24, 2024 **TIME:** 9:00 a.m. to 3:00 p.m.

College of Occupational Therapists of Ontario
Boardroom
20 Bay Street, #900
Toronto ON M5J 2N8

Agenda Item		Objective	Attach	Time (approx.)
1.0	Welcome and Call to Order			
2.0	Public Protection Mandate			
3.0	Land Acknowledgement*			
4.0	Declaration of Conflict of Interest			
5.0	Approval of Agenda – October 24, 2024	Decision	✓	
	<i>THAT the agenda be approved as presented.</i>			
6.0	Consent Agenda			
	1. Registrar’s Written Report of October 24, 2024 2. Draft Board Minutes of June 20, 2024 3. Executive Minutes of May 27, 2024 4. Executive Minutes of August 8, 2024 5. Governance Minutes of June 5, 2024 6. Finance & Audit Minutes of August 20, 2024 7. Finance & Audit Minutes of May 21, 2024	Decision	✓	5
	<i>THAT the Board adopt the consent agenda items as listed:</i>			
7.0	Audited Financial Statements & Annual Report			
	7.1 Audited Financial Statements Usman Paracha of Hilborn LLP, Auditor (9:15am)	Decision	✓	10
	<i>THAT the Board approve the Audited Financial Statements for the fiscal year ended May 31, 2024, as presented. (Allan Freedman)</i>			
	7.2 Draft Annual Report for 2023-2024	Decision	✓	10
	<i>THAT the Board approve the Annual Report for the 2023-2024 fiscal year for distribution. (Stacey Anderson)</i>			
8.0	Registrar’s Report			

Agenda Item		Objective	Attach	Time (approx.)
8.1	Presentation: 2024-2025 Status of Operational Objectives by Elinor Larney, Registrar & CEO	Information		15
8.2	Q1 FY2024-2025 Quarterly Performance Report	Decision	✓	10
	<i>THAT the Board receive the Quarterly Performance Report for Q1 FY2024-2025.</i> (Lucy Kloosterhuis)			
8.3	Risk Management Report	Decision	✓	10
	<i>THAT the Board receive the Risk Management Report.</i> (Allan Freedman)			
8.4	Presentation: Practice Risks By Kimberly Woodland, Director of Programs	Information		15
8.5	Risk Register and Practice Risks	Decision	✓	10
	<i>THAT the Board receive the portion of the Risk Register about Practice Risks.</i> (Allan Freedman)			
9.0	Financial Report			
9.1	Fiscal Year 2024/2025 Q1 Financial Summary Report	Decision	✓	10
	<i>THAT the Board receive the FY24/25 Q1 Financial Report, as presented.</i> (Allan Freedman)			
10.0	New Business			
10.1	College Involvement in New Discipline Tribunal Process	Decision	✓	30
	<p><i>THAT the Board amend the bylaws to add an adjudicator to the composition of the Discipline and Fitness to Practice committees and other changes needed to enact this.</i></p> <p><i>THAT the Board approve changes to the terms of reference for the Discipline and Fitness to Practice committees to add an adjudicator to the committee composition.</i></p> <p><i>THAT the Board recommend the College continue to review the process of participating in the Health Professions Discipline Pilot Tribunal (HPDPT) and to bring this forward to the Board for approval at a later date.</i></p> <p><i>THAT the Board appoint Mr. David Wright to the Discipline and Fitness to Practice committees for a three-year term, effective immediately.</i></p> <p>(Stacey Anderson)</p>			
10.2	Additional Demographic Data Collection	Decision	✓	15
	<i>THAT the Board approve the collection of additional demographic data related to Indigenous and Race Identity.</i> (Allan Freedman)			

Agenda Item	Objective	Attach	Time (approx.)
10.3 Nominations Committee Policies and Appointment			
10.3.1 (i) Screening, Selection and Appointment of Professional and Community Appointees, and (ii) Screening of Board Candidates and Academic Appointees	Decision	✓	30
<p><i>THAT the Board approve the following policies:</i></p> <ul style="list-style-type: none"> • <i>Screening, Selection, and Appointment of Professional Committee and Community Appointees</i> • <i>Screening of Board Candidates and Academic Appointees</i> <p>(Elizabeth Gartner)</p>			
10.3.2 Appointment of Public Director	Decision	✓	5
<p><i>THAT the Board appoint new public director, Adrian Malcolm, to the Patient Relations and Quality Assurance committees, effective immediately.</i></p> <p>(Lucy Kloosterhuis)</p>			
10.4 Governance Policies			
10.4.1 (i) Risk Management, and (ii) Strategic Planning	Decision	✓	15
<p><i>THAT the Board approve the following revised policies:</i></p> <ul style="list-style-type: none"> • <i>Risk Management</i> • <i>Strategic Planning</i> <p>(Vincent Samuel)</p>			
10.4.2 Role of Registrar & CEO Policy and Bylaws	Decision	✓	10
<p><i>THAT the Board approve the Role of Registrar & CEO policy and associated bylaw amendments.</i></p> <p>(Sarah Milton)</p>			
10.4.3 (i) Board's Relationship with Registrar & College Staff, and (ii) Succession Plan for the Position of Registrar & CEO	Decision	✓	15
<p><i>THAT the Board approve the following governance policies:</i></p> <ul style="list-style-type: none"> • <i>Board's Relationship with the Registrar and College Staff</i> • <i>Succession Plan for the Position of Registrar and CEO</i> <p>(Mary Egan)</p>			
10.5 Artificial Intelligence (AI) Practice Resource Document	Decision	✓	15
<p><i>THAT the Board approve the practice resource document about the use of artificial intelligence (AI) in occupational therapy practice, for publication.</i></p> <p>(Stacey Anderson)</p>			

Agenda Item		Objective	Attach	Time (approx.)
10.6	Response to Coroner’s Request	Decision	✓	15
	<i>THAT the Board approve the proposed practice resource about the safe use of transfer poles.</i> (Stacey Anderson)			
11.0	Education Day Debrief			
12.0	Environmental Scan			
13.0	Other Business			
	13.1 Board Meeting Evaluation for October 24, 2024	To Complete	<i>Link to follow</i>	
14.0	Next Meetings			
	Board Meeting: January 30, 2025, 9:00 a.m. – 3:30 p.m., COTO Boardroom Board Meeting & Officer Elections: March 27, 2025, 9:00 a.m. – 4:00 p.m., COTO Boardroom Board Meeting: June 19, 2025, 9:00 a.m. – 3:30 p.m., COTO Boardroom			
15.0	Adjournment			

*** Land Acknowledgement**

We recognize that we work and live on traditional lands and territories of Indigenous Peoples. This includes the traditional territories of the Mississauga, the Anishnabeg (ah-nish-naw-bek) the Chippewa, the Haudenosaunee (hoe-duh-nuh-show-nay) and the Wendat peoples. Today, the province of Ontario is home to many diverse First Nations, Inuit and Métis (may-tea) peoples, from the Cree in the Northern reaches to the Delaware in the south. We acknowledge that we are tasked with sharing, respecting, and valuing the land, as a source of life for us all.

REPORT of the Registrar and CEO

Board Meeting of October 24, 2024

Focus of the Board Meeting Today

The first quarter of the fiscal year and of the new strategic plan has ended. At the meeting I will be presenting a summary of accomplishments from this first quarter.

For Your Information:

LEADERSHIP PRIORITY #1: MEANINGFUL ENGAGEMENT

The College builds trust in its role and value through purposeful and meaningful engagement and collaboration.

Communications

- During the first quarter of the fiscal year, it became apparent that the costs to upgrade our website using its current platform would be significantly higher than redesigning a website on a new platform using upgraded technology. In August, Executive approved the use of funds to proceed with this project in the summer as there was a time element to this decision – the old website would not be supported in the new year and the College needed to act. The College has been working with a company to design this new website for the College. We hope to launch by the end of the calendar year.
- The Communications team has designed and delivered the 2024-25 Annual Report of the College for approval at today's meeting.

LEADERSHIP PRIORITY #2: QUALITY PRACTICE

The College embraces leading regulatory practices to protect the public.

Registration Program

- During the first quarter of the year, the Registration team finished annual renewal and then started to register new graduates from occupational therapy university programs.
- The team was pleased to use our new portal for both annual renewal and new registrations. The streamlined registration processes are saving time for both College staff and applicants. One feature of the new system is that applicants can now upload documents directly to our portal vs sending documents by email or mail and then staff having to manually scan or upload these to our system. In addition, an automated flow is set up in the new portal that registers applicants immediately upon paying their registration fee which is the final step of application. In the old system, applicants would need to wait a day or more for staff to manually apply their registration details and issue a welcome email.

- The Registration Committee discussed the proposed collection of race-based data and had several recommendations for the College to consider. There is a briefing note for the Board agenda on this topic.

Quality Assurance Program

- A new risk-based selection of OTs who will participate in the competency assessment is complete and the assessments are underway. Another 100-110 assessments are the goal for this fiscal year.
- The national learning module on cultural safety is underway and the Citizen Advisory Group has been engaged to provide feedback and input. In addition, the College advisory committees have also been consulted for this work. (Indigenous Insights and Equity Perspectives)
- Lesley Krempulec and Archana Bhuvitharan, staff in the Quality Assurance program presented the College's Quality Assurance program at the CNAR conference in Ottawa in October about the risk-based process for the program. Early psychometrics are encouraging related to the risk assessment selection and this process has been successful in identifying OTs who have learning needs. The program is able to analyze data about the assessment outcomes that lead to a clearer picture about which specific risks to practice translate into actual learning needs for registrants.
- The College hosted an occupational therapy student from McMaster University over the summer who worked on content related to the power imbalance in the therapeutic relationship.

Investigations and Resolutions

- There have been two referrals to discipline which can be found on our website.
- The processes for participation in the Pilot of the Discipline Tribunal have been reviewed and are for discussion at the Board meeting today.

Practice

- The team is starting their schedule of fall outreach to the university programs for occupational therapy to inform student occupational therapists about the role of the College and various regulatory functions.

LEADERSHIP PRIORITY #3: SYSTEM IMPACT

The College collaborates for access to the profession and consistent quality practice.

Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO)

- I continue as President of ACOTRO. We held a Board Meeting and strategic planning in September 2024. The Board continues to value collaborative projects. Reports were received on the progression of the re-entry program planning, a national code of ethics, a national e-Learning module for 2025, and the collection of race-based data.

- The College has received approval for funding from the Canadian Institute for Health Information (CIHI) that will assist the College to implement improvements to data submitted. This will include the collection and submission to CIHI of race-based data. We will do this work in concert with other OT regulators in Canada through ACOTRO.
- Since our last meeting the amalgamation of the BC College of Occupational Therapists has been completed to form the new College of Health and Care Professionals of BC as of June 28, 2024. We were pleased that the new CEO of this college attended the ACOTRO meeting and strategic planning session. While this was positive, there is no commitment to any national initiatives except for utilizing the SEAS processes for the assessment of internationally educated occupational therapists. ACOTRO is hoping that a provincial silo will not be established through this process of provincial amalgamation and has encouraged this new college to continue to collaborate on a national level with the occupational therapy regulators through ACOTRO.
- OT Competencies – I am part of a national group that has been formed to assist with the coordination and communication between organizations that will implement the new OT competencies. These include regulators, educators, and the national entry to practice exam and accreditation of university programs. The National Exam will officially convert to the use of the new competencies in September 2026. In addition, I have started a new group, called the OT Competency Editorial Committee that will involve all three partners, ACOTRO, the Association of Canadian Occupational Therapy University Programs (ACOTUP), and the Canadian Association of Occupational Therapists (CAOT), that will discuss any changes needed to the competencies, now, or in future years. Most notably, there has been some criticism of the French translation of the competencies which the committee hopes to resolve as a first step.
- ACOTRO, through the SEAS program, will undertake two projects this year to increase efficiency. We are hoping to secure funding through one of the provincial governments and have some early signs this may be possible. However, if funding is not obtained, we will proceed anyway, but the pace will be slower.

Health Profession Regulators of Ontario (HPRO)

- I continue on the Management Committee as past chair for one more year. 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 is working with Rubicon Strategy, a government relations firm. Rubicon has provided strategic advice related to its 2024 government relations objectives. They will help identify collective priorities across our 26 colleges for HPRO to present to the government. In this capacity, Rubicon has officially registered as a lobbyist for HPRO with the appropriate registry.

Ministry of Health (MOH)

- HPRO was pleased to welcome the Honorable Sylvia Jones, Minister of Health and Deputy Premier to our June meeting. She made remarks to the group that highlighted the priorities in the province of access to appropriate professionals for Ontarians, removing unnecessary barriers to registration for qualified applicants, the importance of the patient experience and a team

approach to patient services. She raised the issue of changes to professional scopes of practice and challenged the group to think of this topic in a collaborative manner. A letter of thank you is in your FYI package.

- I have been in touch with ministry staff to keep abreast of any government developments that might affect regulation and to provide information related to health human resources information.

LEADERSHIP PRIORITY #4: PERFORMANCE AND ACCOUNTABILITY

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

Staffing Update

Since the last Board Meeting:

- We have said farewell to Leandri Engelbrecht, Manager, Registration. We will be recruiting for a new manager over the fall.
- We have two staff who are still on a leave, Sara Karas and Leah Thiffault. We expect them both back sometime in 2025.

Governance

- We were pleased to hear about the appointment of Mr. Adrian Malcolm to our Board. We continue to monitor the status of public appointments as this is a topic of high risk for the College. We have now learned that Ms. Sabrina Shaw was not reappointed to our Board. Therefore, we continue to have the minimum five public members, as opposed to an ideal, seven members.
- As we are now working within the new system of governance that separates the Board membership from statutory committee membership, a process to ensure that the Board feels appropriately briefed on committee activities was needed. Included on the Quarterly Report is a section for each committee for its workplan. This will inform a proposed Board work plan. The goal is to be able to anticipate what is being worked on by each committee and keep the Board informed of the progress of the work.

See you at the meeting! Elinor

BOARD MEETING MINUTES - DRAFT

DATE: Thursday, June 20, 2024

TIME: 9:00 a.m. – 3:30 p.m.

In Attendance:

DIRECTORS:

Neelam Bal, *Chair*
Stacey Anderson
Nick Dzudz
Mary Egan
Allan Freedman
Christine Funk
Elizabeth Gartner
Lucy Kloosterhuis
Sarah Milton
Julie Reinhart
Vincent Samuel
Sabrina Shaw
Tina Siemens

GUESTS:

OBSERVERS:

Tiffany Mak, *Ministry of Health (MOH)*

STAFF:

Elinor Larney, *Registrar & CEO*
Sahaj Bhullar, *Summer Paralegal Student*
Sandra Carter, *Manager, Practice*
Enrique Hidalgo, *Manager, IT*
Stamatis Kefalianos, *Director, Regulatory Affairs*
Lesley Krempulec, *Manager, Quality Assurance Program*
Tim Mbugua, *Policy Advisor*
Cara Moroney, *Manager, Investigations & Resolutions*
Seema Singh-Roy, *Director, Finance, People & Corporate Services*
Andjelina Stanier, *Executive Assistant, Scribe*
Nancy Stevenson, *Director, Communications*
Kim Woodland, *Program Director*

REGRETS:

1.0 Welcome and Call to Order

Chair Neelam Bal called the meeting to order at 9:07 a.m. She welcomed everyone and invited members to introduce themselves.

2.0 Public Protection Mandate

The Chair stated the role of the Board is to come together to participate and collaborate in order to make the best decisions in the public interest.

3.0 Land Acknowledgement*

The Chair read out the Land Acknowledgement statement (Appendix 1).

4.0 Declaration of Conflict of Interest

The Chair called for declarations of conflict of interest. None were reported.

5.0 Board Orientation

Various staff members presented on the work of committees and program areas.

6.0 Approval of Agenda

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

MOVED BY: Christine Funk

SECONDED BY: Lucy Kloosterhuis

THAT the agenda be approved as presented.

CARRIED

7.0 Consent Agenda

The Chair called for the adoption of the following Consent Agenda items.

1. Registrar's Written Report of June 20, 2024
2. Draft Board Minutes of April 4, 2024
3. Draft Board Officer Elections Minutes of April 4, 2024
4. Executive Minutes of March 13, 2024
5. Governance Minutes of March 21, 2024
6. Finance & Audit Minutes of March 19, 2024

MOVED BY: Sarah Milton

SECONDED BY: Stacey Anderson

THAT the Board adopt the Consent Agenda items as listed.

CARRIED

8.0 Registrar's Report

8.1 Presentation: 2020-2024 Strategic Plan Wrap Up & 2024-2027 Operational Objectives

The Registrar and CEO presented the outcomes of the 2020-2024 strategic plan and outlined the operational objectives for the new 2024-2027 strategic plan and responded to questions.

8.2 Q4 FY2023-2024 Quarterly Performance Report

Stacey Anderson stated that the current Quarterly Performance Report reflects committee activities for Q4 of FY2023-2024 related to the 2020-2024 Strategic Plan. The Board held a brief discussion.

MOVED BY: Stacey Anderson

SECONDED BY: Elizabeth Gartner

THAT the Board receive the Quarterly Performance Report for Q4 FY2023-2024.

CARRIED

8.3 Risk Management Report

Lucy Kloosterhuis introduced the Q4 FY2023-2024 risk management report as it relates to Board oversight of high or critical risk items. Elinor reviewed the status of the four risks highlighted in the report and recommended that the risk related to the Enterprise System now be removed from the report to the Board. The system was deployed and is functioning and while some additional work is required, it is no longer considered high risk. The Board deferred this decision to its October meeting.

MOVED BY: Lucy Kloosterhuis
SECONDED BY: Sabrina Shaw

THAT the Board receive the Risk Management Report.

CARRIED

9.0 Finance

9.1 Financial Policies

Allan Freedman stated that the Finance and Audit Committee reviewed the financial policies as provided and brings forward minor revisions for Board consideration. The Board held a brief discussion.

MOVED BY: Allan Freedman
SECONDED BY: Vincent Samuel

THAT the Board approve the updated financial policies as listed:

- *RL4 – Financial Planning & Budgeting*
- *RL5 – Financial Conditions & Activities*
- *RL6 – Asset Protection*
- *RL7 – Investments*
- *RL8 – External Audit*
- *Establishing and Maintaining Reserve Funds*
- *Honoraria*
- *Education Session Costs*
- *Board Reference Material – Guide to Review of Financial Information*

CARRIED

9.2 FY24/25 Annual Operating Budget

The annual operating budget for FY2024-2025 was presented today for Board consideration. Allan stated that the proposed budget is in an overall deficit position within 5% of revenues. This is an improvement from FY2023-2024. The deficit will be funded by our unrestricted reserve fund. A 5-year forecast developed last year projected deficits for the subsequent 4 years. Allan noted that the proposed budget highlights overall registration revenues to increase by 3% which is consistent with the prior year, and an additional 2% for the fee increase which was just implemented. All expenses have been projected based on prior year averages or known information for the upcoming year. Key projects in the budget align with and meet strategic priorities and goals.

MOVED BY: Allan Freedman
SECONDED BY: Christine Funk

THAT the Board approve the FY2024-2025 Annual Operating Budget, as presented.

CARRIED

10.0 New Business

10.1 Supporting Positive Relationships Policy

Elinor explained that a new policy, *Supporting Positive Relationships*, has been developed replacing the previous *RL2-Treatment of Registrants* and *RL3-Treatment of Staff* policies. The new policy outlines expected positive relationships between the College and its Board, Committee/Community Appointees, Registrants, staff, and public members and aligns with ongoing governance modernization initiatives.

MOVED BY: Stacey Anderson
SECONDED BY: Tina Siemens

THAT the Board approve the new draft policy, Supporting Positive Relationships, as presented.

CARRIED

10.2 Role of College Committees Policy

Lucy Kloosterhuis stated that the new draft policy, *Role of College Committees*, aligns with ongoing governance modernization initiatives. Elinor explained that it was initially presented to the Board at their April meeting and is now brought back incorporating the Board recommendation to clarify the Board's responsibility around establishing committees.

MOVED BY: Lucy Kloosterhuis
SECONDED BY: Stacey Anderson

THAT the Board approve the new draft policy, Role of College Committees as presented.

CARRIED

10.3 Terms of Reference Revisions

Revisions to the terms of reference for the Governance and Finance and Audit committees were brought back today incorporating the Board's recommendations following the April meeting.

MOVED BY: Stacey Anderson
SECONDED BY: Julie Reinhart

THAT the Board approve the updated terms of reference for the Governance and the Finance and Audit committees.

CARRIED

10.4 Registrar Evaluation Process

The Chair stated that the annual Registrar Performance Evaluation will be conducted over the next few weeks. Members will receive an electronic survey to complete. Those with less than three months' experience on the Board are not required to participate but may do so if they wish. Select staff will also provide feedback. The Chair will review the feedback with the Executive Committee and then meet with the Registrar in August to discuss the results.

11.0 Environmental Scan

Members provided various updates on changes in systems and information of interest that impact the practice of occupational therapy.

12.0 Other Business

12.1 Board Meeting Evaluation for April 4, 2024

The Chair reminded members to complete the electronic Board Meeting Evaluation for today's meeting and to provide recommendations for future improvements. A survey link will be sent following the meeting.

13.0 Next Meetings

Board Education Session: October 23, 2024, 9:00 a.m. – 4:00 p.m., Radisson Blu Hotel, Toronto

Board Meeting: October 24, 2024, 9:00 a.m. – 3:30 p.m., COTO Boardroom

Board Meeting: January 30, 2025, 9:00 a.m. – 3:30 p.m., COTO Boardroom

Board Meeting: March 27, 2025, 9:00 a.m. – 4:00 p.m., COTO Boardroom

Board Meeting: June 19, 2025, 9:00 a.m. – 3:30 p.m., COTO Boardroom

14.0 Adjournment

There being no further business, the meeting was adjourned at 1:58 p.m.

MOVED BY: Allan Freedman

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

CARRIED

APPENDIX 1: * Land Acknowledgement

We recognize that we work and live on traditional lands and territories of Indigenous Peoples. This includes the traditional territories of the Mississauga, the Anishnabeg (ah-nish-naw-bek) the Chippewa, the Haudenosaunee (hoe-duh-nuh-show-nay) and the Wendat peoples. Today, the province of Ontario is home to many diverse First Nations, Inuit and Métis (may-tea) peoples, from the Cree in the Northern reaches to the Delaware in the south. We acknowledge that we are tasked with sharing, respecting, and valuing the land, as a source of life for us all.

APPENDIX 2: Status of Implementation of Board Decisions

Board Meeting Date	Decisions	Current Status
June 20, 2024	THAT the Board approve the updated terms of reference for the Governance and the Finance and Audit committees.	Complete
June 20, 2024	THAT the Board approve the new draft policy, Role of College Committees as presented.	Complete
June 20, 2024	THAT the Board approve the new draft policy, Supporting Positive Relationships, as presented.	Complete
June 20, 2024	THAT the Board approve the FY2024-2025 Annual Operating Budget, as presented.	Complete
June 20, 2024	THAT the Board approve the updated financial policies as listed: <ul style="list-style-type: none"> • RL4 – Financial Planning & Budgeting • RL5 – Financial Conditions & Activities • RL6 – Asset Protection • RL7 – Investments • RL8 – External Audit • Establishing and Maintaining Reserve Funds • Honoraria • Education Session Costs • Board Reference Material – Guide to Review of Financial Information 	Complete
April 4, 2024	THAT the Board ratify its unanimous decision executed by electronic motion on March 25, 2024, to approve the 2023 College Performance Measurement Framework for submission to the Ministry of Health.	Complete
April 4, 2024	THAT the Board approve the action plan that addresses the recommendations from the governance report.	Complete
April 4, 2024	THAT the Board approve the following policies, with the exception of Role of College Committees: <ul style="list-style-type: none"> • Mission, Vision, and Values • Role of Board Chair • Role of Board Vice-Chair • Role of Committee Chair • Rules of Order 	Complete
April 4, 2024	THAT the Board approve the updated terms of reference, including today's recommendations, for all College	Complete

Board Meeting Date	Decisions	Current Status
	<i>committees, with the exception of the Governance Committee.</i>	
April 4, 2024	<i>THAT</i> the Board approve the amended bylaws as presented, including today's changes.	Complete
April 4, 2024	<i>THAT</i> the Board reappoint Melissa Aldoroty to the Patient Relations Committee for a second 3-year term commencing on March 31, 2024.	Complete
April 4, 2024	<i>THAT</i> the Board reappoint Michael Ivany to the Quality Assurance Committee for a second 3-year term commencing on June 17, 2024.	Complete

DRAFT

EXECUTIVE COMMITTEE MINUTES

DATE: Monday, May 27, 2024

TIME: 1:00 – 4:00 p.m. via zoom

In Attendance:

MEMBERS:

Neelam Bal, *Chair*
Stacey Anderson
Allan Freedman
Lucy Kloosterhuis

GUESTS:

STAFF:

Elinor Larney, *Registrar & CEO*
Andjelina Stanier, *Executive Assistant, Scribe*

REGRETS:

1.0 Call to Order

Chair Neelam Bal welcomed everyone and called the meeting to order at 1:00 p.m.

2.0 Public Protection Mandate

The Chair stated as a reminder that the role of the Executive Committee is to come together to discuss and collaborate in the best interest of the public.

3.0 Land Acknowledgement*

The Chair read out the Land Acknowledgement (Appendix 1).

4.0 Declaration of Conflict of Interest

The Chair asked if members had a conflict of interest to declare. None was reported.

5.0 Executive Committee Orientation

Elinor Larney conducted the orientation session and responded to questions.

6.0 Approval of Agenda

The Chair asked if there were any additions or other changes to today's agenda. None were reported.

MOVED BY: Allan Freedman

SECONDED BY: Stacey Anderson

THAT the Executive Committee Agenda for May 27, 2024, be approved as presented.

CARRIED

7.0 Executive Committee Terms of Reference

The committee terms of reference were provided as a resource for review prior to meetings.

8.0 Approval of Draft Minutes

The Chair called for edits to the draft minutes of March 13, 2024. None were reported.

MOVED BY: Allan Freedman

SECONDED BY: Lucy Kloosterhuis

THAT the Executive Minutes of March 13, 2024 be approved as presented and as a report of the 2023-2024 Executive Committee.

CARRIED

9.0 Registrar's Report

9.1 Registrar's Verbal Report

Public Members Update

The Board is currently constituted with a minimum number of public members with no information at this time on any additional appointments. Sabrina Shaw's first term will end in October 2024. She has expressed interest in a second term and the Public Appointments Office has been notified.

HPRO - Health Profession Regulatory Organizations

HPRO is composed of 28 health professions in Ontario with a mandate to promote regulatory excellence. Minister of Health Sylvia Jones is expected to attend the Annual General Meeting next week.

ACOTRO - Association of Canadian Occupational Therapy Regulatory Organizations

ACOTRO is comprised of the 10 provincial occupational therapy regulators across Canada. Its mandate is to work together for public protection to advance the effective regulation of occupational therapists in Canada. ACOTRO oversees the Substantial Equivalency Assessment System (SEAS) which provides guidance and information to internationally educated OTs seeking to register in Canada. ACOTRO held its Annual General Meeting and Board meeting April 29-30, 2024. The 2023 ACOTRO Annual Report will be provided to the COTO Board in the next meeting package. The Remote Practice Memorandum of Understanding now entered into by the nine participating colleges (except B.C.), defines the terms and rules related to OTs working remotely in other jurisdictions and how complaints will be handled. This agreement promotes access to care while keeping public protection at the forefront. ACOTRO continues to develop the Re-entry to Practice Program. The next ACOTRO Board meeting in September will include strategic planning for the next 3-year cycle. The Canadian Institute for Health Information (CIHI), which collects data across multiple professions across Canada, is working to modernize the data it collects and has offered funding to OT regulators to help recover some of the costs that each province will incur to upgrade their data collection systems. College bylaw changes will be required. ACOTRO held a nation-wide training webinar for OT regulators and

staff in April on *Indigenous Cultural Safety and Humility*. It was very well attended and well received.

Committee Chair Training

The College held a Chair training session in April with facilitator, Carolyn Everson.

Unconscious Bias Training

The College held a training session on *Unconscious Bias* in January 2024 for Board Directors, committee and community appointees, and peer assessors. A repeat session will be held on June 7 for all the new committee appointees who began in April and for those who were unable to attend the first session.

Artificial Intelligence (AI)

AI is one of the topics of focus for the Board Education Session in October. Elinor attended an AI conference to gain knowledge on the subject. The Practice Team is working on a guidance document.

OT Competencies

The OT Competencies will be incorporated into the teaching curriculums of university OT programs by the 2025-2026 school year and integrated into the national exam in 2026. The development of the competencies was a tri-partite collaboration between the Canadian Association of Occupational Therapists (CAOT), Association of Canadian Occupational Therapy University Programs (ACOTUP), and ACOTRO. These groups have now also formed the OT Competency Editorial Committee which will address feedback received for minor wording changes and a review of the French translation with respect to DEI language.

CAOT - Canadian Association of Occupational Therapists

Elinor attended the CAOT national conference earlier in May. The emphasis was on inclusion and diversity and Truth & Reconciliation.

OTOC - Occupational Therapy Ontario Collaborative

OTOC members include university OT program directors, OT provincial association, and the College. OTOC met earlier this month to discuss ongoing activities including the Human Health Resource crisis, increasing spaces in OT programs, and issues with access to clinical placements.

Internal

- Annual Renewal will end at midnight on May 31. Staff have been working diligently to assist registrants as needed.
- Recruitment is underway for a summer paralegal student to assist in the I&R program.

9.2 Annual Risk Register Review / Risk Management Report

Elinor reported that two new risks were identified as high or critical: Financial risk related to an anticipated fee increase, and the risk of the Board becoming unconstituted due to lack of public appointments and the increased workload on the existing public directors. There are currently five public Directors which is the minimum required to remain constituted. The committee discussed downgrading the Enterprise System risk and recommending its removal from the Board report. Executive reviewed the Risk Register in its entirety, which is an annual activity, and no changes were recommended.

MOVED BY: Stacey Anderson

SECONDED BY: Lucy Kloosterhuis

THAT the Executive Committee recommend the Board receive the Risk Management Report.

CARRIED

10.0 Business Arising

10.1 Committee Work Plan

The committee reviewed the 2024-2025 work plan and held a discussion.

10.2 Board Education Day Planning

Elinor updated the committee on plans for the Board Education Day in October. The topics of focus will be Artificial Intelligence and Governance.

10.3 Registrar Evaluation Process

Executive reviewed the annual Registrar evaluation process and approved it.

10.4 Draft Board Minutes – April 4, 2024

Executive reviewed the draft Board Minutes.

10.5 Draft Board Officer Elections Minutes – April 4, 2024

Executive reviewed the draft Board Officer Election Minutes.

10.6 Board Meeting Evaluation Feedback

Executive reviewed the feedback from the April 4, 2024, Board meeting and noted several suggestions for improvement. At the June Board meeting, presentations will be held on the work of the committees, how to read a financial statement, and how to navigate and make notes in the electronic meeting package. The Chair will remind onsite Board members to abstain from side conversations and to face the Owl when speaking to ensure adequate audio transmission for the virtual attendees. If the motion on the floor is substantially amended, it will be displayed on the screen and edited in real time to ensure accuracy.

10.7 Draft Board Meeting Agenda

Executive finalized the June 20, 2024 Board Meeting agenda.

11.0 Next Meetings

1. August 7, 2024, 1:00 – 2:00 p.m. (*in camera* re Registrar Performance Review)
2. October 2, 2024, 1:00 – 4:00 p.m.

12.0 Adjournment

There being no further business, the meeting was adjourned at 3:57 p.m.

MOVED BY: Allan Freedman

THAT the meeting be adjourned.

CARRIED

APPENDIX 1

* Land Acknowledgement

We recognize that we work and live on traditional lands and territories of Indigenous Peoples. This includes the traditional territories of the Mississauga, the Anishnabeg (ah-nish-naw-bek) the Chippewa, the Haudenosaunee (hoe-duh-nuh-show-nay) and the Wendat peoples. Today, the province of Ontario is home to many diverse First Nations, Inuit and Métis (may-tea) peoples, from the Cree in the Northern reaches to the Delaware in the south. We acknowledge that we are tasked with sharing, respecting, and valuing the land, as a source of life for us all.

EXECUTIVE COMMITTEE MINUTES

DATE: Thursday, August 8, 2024 **TIME:** 8:30 a.m. – 9:30 a.m. via zoom

In Attendance:

MEMBERS:

Neelam Bal, *Chair*
Stacey Anderson
Allan Freedman
Lucy Kloosterhuis

GUESTS:

STAFF:

Elinor Larney, *Registrar & CEO*
Seema Singh-Roy, *Director of Finance, People and Corporate Services*
Andjelina Stanier, *Executive Assistant, Scribe*
Nancy Stevenson, *Director of Communications*

REGRETS:

1.0 Call to Order

Chair Neelam Bal welcomed everyone and called the meeting to order at 8:30 a.m.

2.0 Public Protection Mandate

The Chair reminded members that the role of the committee is to make honourable and ethical decisions in the best interest of the public

3.0 Land Acknowledgement*

The Chair read out the Land Acknowledgement (Appendix 1).

4.0 Declaration of Conflict of Interest

The Chair asked if members had a conflict of interest to declare. None was reported.

5.0 Approval of Agenda

The Chair asked if there were any additions or other changes to the agenda. None were reported.

MOVED BY: Lucy Kloosterhuis

SECONDED BY: Allan Freedman

THAT the agenda be approved as presented.

CARRIED

6.0 Business Arising

6.1 Website Redesign

The Registrar stated that approval for funds for the redesign of the College website is necessary due to the retirement of the existing platform after January 2025. This expense was not budgeted for in the 2024/25 budget. The planned transfer of existing assets to the next version of the current platform now exceeds the cost of a redesign in a new platform. The Registrar responded to questions and the committee held a discussion.

MOVED BY: Allan Freedman
SECONDED BY: Stacey Anderson

THAT Executive approve the use of up to \$80,000 from unrestricted reserves to fund the redesign of the COTO Website.

CARRIED

6.2 Confidential Matter (in camera)

The Chair called for a motion to go *in camera* to discuss a confidential matter and asked staff to leave the meeting. Elinor, Nancy, Seema and Andjelina left the meeting. Following the meeting, the Chair communicated to the scribe that the meeting remained *in camera* for the remainder of the meeting and that *in camera* minutes were not recorded.

MOVED BY: Lucy Kloosterhuis
SECONDED BY: Allan Freedman

THAT the meeting move *in camera*.

CARRIED

7.0 Next Meetings

Wednesday, October 2, 2024, 1:00 p.m. – 4:00 p.m., virtual
Wednesday, January 15, 2024, 1:00 p.m. – 4:00 p.m., virtual

8.0 Adjournment

There being no further business, the meeting was adjourned at 9:30 a.m.

MOVED BY: Lucy Kloosterhuis

THAT the meeting be adjourned.

CARRIED

APPENDIX 1

*** Land Acknowledgement**

We recognize that we work and live on traditional lands and territories of Indigenous Peoples. This includes the traditional territories of the Mississauga, the Anishnabeg (ah-nish-naw-bek) the Chippewa, the Haudenosaunee (hoe-duh-nuh-show-nay) and the Wendat peoples. Today, the province of Ontario is home to many diverse First Nations, Inuit and Métis (may-tea) peoples, from the Cree in the Northern reaches to the Delaware in the south. We acknowledge that we are tasked with sharing, respecting, and valuing the land, as a source of life for us all.

GOVERNANCE COMMITTEE MINUTES

DATE: Wednesday, June 5, 2024 **TIME:** 9:00 a.m. to 12:00 p.m. *via Zoom*

In Attendance:

MEMBERS:

Neelam Bal, *Chair*
Mary Egan
Elizabeth Gartner
Sarah Milton
Julie Reinhart
Vincent Samuel
Sabrina Shaw

STAFF:

Elinor Larney, Registrar & CEO
Stamatis Kefalianos, Director of Regulatory Affairs
Tim Mbugua, Policy Analyst
Andjelina Stanier, Executive Assistant, *Scribe*

GUESTS:

REGRETS:

1.0 Call to Order

Chair Neelam Bal welcomed everyone and called the meeting to order at 9:01 a.m.

2.0 Public Protection Mandate

The Chair stated as a reminder that the committee has come together to participate and collaborate to make decisions in the best interest of the public.

3.0 Land Acknowledgement

The Chair read out the Land Acknowledgement Statement (Appendix 1).

4.0 Declaration of Conflict of Interest

The Chair called for conflicts of interest related to the agenda. None were declared.

5.0 Committee Orientation

Stamatis Kefalianos and Elinor Larney conducted the committee orientation and responded to questions.

6.0 Approval of Agenda

The Chair called for changes to the agenda. Breaks were added as needed.

MOVED BY: Sarah Milton
SECONDED BY: Sabrina Shaw

THAT the agenda be approved as amended.

CARRIED

7.0 Governance Committee Terms of Reference

The committee terms of reference were included for reference and review in preparation for the meeting.

8.0 Approval of Draft Minutes

The Chair called for edits or other changes to the draft minutes of March 21, 2024. None were reported.

MOVED BY: Vincent Samuel

SECONDED BY: Sarah Milton

***THAT** the draft Governance Committee minutes of March 21, 2024, as presented, be approved as a report of the 2023-2024 Governance Committee.*

CARRIED

9.0 Updated Terms of Reference – Governance, and Finance and Audit Committees

Tim explained that in follow-up to the Board's recommendations for additional changes to the terms of reference for the Governance and Finance and Audit committees, the updated terms of reference for both committees were provided today for consideration.

MOVED BY: Sarah Milton

SECONDED BY: Julie Reinhart

***THAT** the draft Governance Committee recommend the updated Terms of Reference for the Governance, and Finance and Audit committees, including today's changes, be brought forward to the Board for approval.*

CARRIED

10.0 Governance Policy – Supporting Positive Relationships

Tim explained that as part of the comprehensive review of the Governance Manual and elimination of negative language, the new proposed *Supporting Positive Relationships* policy was developed. If approved, the current *Treatment of Registrants (RL2)* and *Treatment of Staff (RL3)* policies would be retired. The new policy outlines expected positive relationships between the College and its Board, Committee/Community Appointees, Registrants, staff, and the public members.

MOVED BY: Vincent Samuel

SECONDED BY: Mary Egan

***THAT** the Governance Committee recommend the Supporting Positive Relationships policy be brought forward to the Board for approval.*

CARRIED

11.0 Governance Policy – Role of College Committees

Stamatis explained that Board input at the last meeting to add language clarifying the Board's responsibility with establishing committees has been incorporated. The policy was presented today for consideration.

MOVED BY: Sabrina Shaw

SECONDED BY: Elizabeth Gartner

***THAT** the Governance Committee recommend the Role of College Committees policy be brought forward to the Board for approval.*

CARRIED

12.0 Governance Policy – Role of Registrar & CEO

Stamatis explained that as part of the comprehensive review of the Governance Manual to eliminate negative language and to align with other policies on roles and responsibilities, the new proposed policy *Role of Registrar & CEO* was developed. If approved, the current Council Registrar Linkage (CRL) policies #1-4 would be retired. Changes to the College bylaws would be required.

MOVED BY: Elizabeth Gartner

SECONDED BY: Julie Reinhart

***THAT** the Governance Committee recommend the Role of Registrar & CEO policy be brought forward to the Executive Committee for consideration.*

CARRIED

13.0 Governance Policies Manual – Status Update

Stamatis explained that this is a standing item for information only to update the committee on the progress of the comprehensive review of the Governance Policies.

14.0 CDHO Governance Review

Stamatis presented this item as information only. One interesting comment by the evaluators was the College's strict adherence to the policy governance framework and the subsequent rigidity of processes. It was noted that our college has moved away from the strict policy governance framework even though the use of policies to guide work continues. Hopefully this strikes a useful balance.

15.0 Environmental Scan

The Chair invited members to share general interest items related to governance.

16.0 Next Meeting

Thursday, October 3, 2024, 1:30 – 4:00 p.m.

17.0 Adjournment

There being no further business, the meeting was adjourned at 11:36 a.m.

MOVED BY: Elizabeth Gartner

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

CARRIED

APPENDIX 1: * LAND ACKNOWLEDGEMENT

We recognize that we work and live on traditional lands and territories of Indigenous Peoples. This includes the traditional territories of the Mississauga, the Anishnabeg (ah-nish-naw-bek) the Chippewa, the Haudenosaunee (hoe-duh-nuh-show-nay) and the Wendat peoples. Today, the province of Ontario is home to many diverse First Nations, Inuit, and Métis (may-tea) peoples, from the Cree in the Northern reaches to the Delaware in the south. We acknowledge that we are tasked with sharing, respecting, and valuing the land, as a source of life for us all.

APPENDIX 2: Committee Decisions & Action Items

Meeting Date	Decisions & Action Items	Current Status
June 5, 2024	THAT the Governance Committee recommend the Role of Registrar & CEO policy be brought forward to the Executive Committee for consideration.	ongoing
June 5, 2024	THAT the Governance Committee recommend the Role of College Committees policy be brought forward to the Board for approval.	ongoing
June 5, 2024	THAT the Governance Committee recommend the Supporting Positive Relationships policy be brought forward to the Board for approval.	ongoing
June 5, 2024	THAT the draft Governance Committee recommend the updated Terms of Reference for the Governance, and Finance and Audit committees, including today's changes, be brought forward to the Board for approval.	ongoing
March 21, 2024	THAT the Governance Committee recommend the amended bylaws, including today's changes, be brought forward to the Board for approval.	complete
March 21, 224	THAT the Governance Committee recommend the updated committee terms of reference be brought forward to the Board for approval.	complete
March 21, 2024	THAT the Governance Committee recommend the following new and current revised policies, including today's changes, be brought forward to the Board for approval: <ul style="list-style-type: none"> • Mission, Vision, and Values • Role of Board Chair • Role of Board Vice-Chair • Role of Committee Chair • Role of College Committees • Rules of Order 	complete

FINANCE AND AUDIT COMMITTEE MINUTES

DATE: Tuesday, August 20, 2024 **TIME:** 8:00 a.m. – 10:00 a.m. via video conference

In Attendance:

MEMBERS:

Allan Freedman, *Chair*
Tina Siemens
Christine Funk
Lucy Kloosterhuis

GUESTS:

OBSERVERS:

None

REGRETS:

None

STAFF:

Elinor Larney, Registrar and CEO
Seema Singh-Roy, Director of Finance, People and Corporate Services
Grace Jacob, Accounting and Payroll Specialist, *Scribe*

1.0 Call to Order

The Chair, Allan Freedman, welcomed everyone and called the meeting to order at 8:02 a.m.

2.0 Public Protection Mandate

The committee members were reminded of the public protection mandate of the College.

3.0 Land Acknowledgement*

The Chair invited members to read and to consider the Land Acknowledgement Statement.

4.0 Declaration of Conflict of Interest

The Chair inquired if any members had a conflict of interest to declare. None were reported.

5.0 Terms of Reference

The Chair stressed the significance of ensuring that all Committee members are familiar with the Finance and Audit terms of reference, as well as the essential tasks required for the Committee's fulfillment.

6.0 Approval of Agenda

6.1 August 20, 2024

The Chair asked if there were any additions or changes to the agenda. None were reported.

MOVED BY: Christine Funk
SECONDED BY: Lucy Kloosterhuis

THAT the agenda be approved as presented.

CARRIED

7.0 Approval of Minutes

7.1 Draft Finance and Audit Minutes – May 21, 2024

The Chair inquired if members of the Committee had any additions or changes to the draft minutes from May 21, 2024.

MOVED BY: Lucy Kloosterhuis
SECONDED BY: Christine Funk

THAT the draft Finance and Audit Committee minutes of May 21, 2024, be approved as presented.

CARRIED

8.0 Verbal Report

Seema informed the committee members that the Enterprise system is now operational, though minor tweaks will continue throughout the year. The team will now shift its focus to enhancing the system for reporting purposes. This enhancement will support internal analysis needs and fulfill any Ministry-related statistical requests that the College must submit quarterly.

9.0 Committee Mandate and Work Plan

9.1 Committee Mandate Review and Annual Work Plan

Seema reminded the committee that it is a non-statutory committee, with the primary mandate of assisting the board in fulfilling its obligations related to financial planning and reporting, internal controls, investments, and policies, as outlined in the committee's work plan included in the package. Today's meeting will focus on reviewing the draft audited financial statements, proposed amendments to the internal controls matrix, and discussing the Q4 summary results compared to the budget, along with the Q4 investment report.

10.0 Audited Financial Statements

10.1 Review of draft financial statements from auditor

Seema provided the committee with an overview of the draft audited financial statements prepared by Hilborn. A thorough discussion of the draft was held during the meeting. Seema encouraged all members to bring any questions to the Finance and Audit Committee meeting on September 24, 2024, when the auditors will be present to address them.

11.0 Finance Update

11.1 FY23/24 Q4 Financial Summary Report

Seema provided an overview of the FY23/24 Q4 results of the Statement of Operations, comparing them against the budget for reference. She proceeded to answer any questions asked by the committee members.

11.2 FY23/24 Q4 Investment Report

Seema provided an overview of the Q4 investment report to the committee members.

12.0 Internal Controls

12.1 Review of Internal Controls Matrix

Seema informed the members that the internal controls matrix outlines the processes the College follows to mitigate risk. The matrix is reviewed and updated annually to reflect any changes in processes or employee titles, as noted on the briefing note included in the package.

13.0 New Business

No new business was discussed during the Finance and Audit meeting.

14.0 Next Meeting

The next Finance and Audit Committee meeting is scheduled for September 24, 2024.

15.0 Adjournment

There being no further business, the meeting was adjourned at 8:50 a.m.

MOVED BY: Christine Funk

THAT the meeting be adjourned.

CARRIED

APPENDIX 1

*** Land Acknowledgement**

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FINANCE AND AUDIT COMMITTEE MINUTES

DATE: Tuesday, May 21, 2024 **TIME:** 8:00 a.m. – 10:00 a.m. via video conference

In Attendance:

MEMBERS:

Allan Freedman, *Chair*
Tina Siemens
Christine Funk
Lucy Kloosterhuis

GUESTS:

Blair Mackenzie, Hilborn LLP
Usman Paracha, Hilborn LLP

OBSERVERS:

None

REGRETS:

None

STAFF:

Elinor Larney, Registrar and CEO
Seema Singh-Roy, Director of Finance, People and Corporate Services
Grace Jacob, Accounting and Payroll Specialist, *Scribe*

1.0 Call to Order

The Chair, Allan Freedman, welcomed everyone and called the meeting to order at 8:03 a.m.

2.0 Public Protection Mandate

The committee members were reminded of the public protection mandate of the College.

3.0 Land Acknowledgement*

The Chair invited members to read and to consider the Land Acknowledgement Statement.

4.0 Declaration of Conflict of Interest

The Chair inquired if any members had a conflict of interest to declare. None were reported.

5.0 Terms of Reference

The Chair stressed the significance of ensuring that all Committee members are familiar with the Finance and Audit terms of reference, as well as the essential tasks required for the Committee's fulfillment.

6.0 Approval of Agenda

6.1 May 21, 2024

The Chair asked if there were any additions or changes to the agenda. None were reported.

MOVED BY: Christine Funk
SECONDED BY: Lucy Kloosterhuis

THAT the agenda be approved as presented.

CARRIED

7.0 Approval of Minutes

7.1 Draft Finance and Audit Minutes – March 19, 2024

The Chair inquired if members of the Committee had any additions or changes to the draft minutes from March 19, 2024.

MOVED BY: Christine Funk
SECONDED BY: Lucy Kloosterhuis

THAT the draft Finance and Audit Committee minutes of March 19, 2024, be approved as presented.

CARRIED

8.0 Pre-Audit

8.1 Pre-audit meeting with Hilborn LLP

Blair MacKenzie provided an overview of the purpose of the annual audit and described the roles of the parties in the process. Following this, Usman Paracha presented the pre-audit communication, detailing the stages and activities scheduled for the upcoming audit.

9.0 Orientation

9.1 Finance and Audit Committee Orientation

Seema presented the orientation material outlining the work and responsibility of the committee.

10.0 Committee Mandate and Work Plan

10.1 Draft FY24/25 Annual Work Plan with Terms of Reference for guidance

Seema presented the Draft FY24/25 Annual Workplan and outlined the items that will be presented to the Finance and Audit committee in the near future.

11.0 Verbal Report

Seema briefed the committee members on the Enterprise system, noting that the new system is now operational for FY24/25 annual renewal and is progressing smoothly. The next phase involves integrating the I&R process into the system to incorporate case management. Efforts will continue to focus on maintaining system functionality and implementing enhancements. Our next major project, Document Management project has commenced and is in the initial phase.

12.0 Finance Update

12.1 FY24/25 Annual Operating Budget

Seema presented the proposed annual operating budget to the FA Committee, revealing a final deficit for FY24/25 of 5% of revenues. This deficit is to be funded by our unrestricted reserve fund. Seema discussed the key areas of the annual budget.

MOVED BY: Lucy Kloosterhuis

SECONDED BY: Tina Siemens

THAT the FY24/25 Annual Operating Budget be recommended for approval to the Board as presented.

CARRIED

13.0 Finance Policies

13.1 Review Financial Policies

Seema presented the members with the proposed amendments to the Finance policies and asked the members if they had any concerns or questions regarding the proposed amendments. None were noted.

MOVED BY: Christina Funk

SECONDED BY: Lucy Kloosterhuis

THAT the amendments to the Financial Policies be recommended for Board approval as presented.

CARRIED

14.0 New Business

No new business was discussed during the Finance and Audit meeting.

15.0 Next Meeting

The next Finance and Audit Committee meeting is scheduled for August 20, 2024.

16.0 Adjournment

There being no further business, the meeting was adjourned at 8:58 a.m.

MOVED BY: Christine Funk

THAT the meeting be adjourned.

CARRIED

APPENDIX 1

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BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Finance and Audit Committee
Subject: Audited Financial Statements - Fiscal Year 2023/2024

Recommendation:

THAT the Board approve the Audited Financial Statements for the fiscal year ended May 31, 2024, as presented.

Issue:

The Board is asked to review and approve the annual Audited Financial Statements of the College.

Link to Strategic Plan:

This aligns under Performance and Accountability

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

4.1 Ensures College governance is proactive, effective, competency-based, and accountable.

Why this is in the Public Interest:

As a self-regulated profession, enhancing accountability, demonstrating stewardship, and providing valuable information publicly will help to build public trust, ideally helping the College to continue to excel as a regulator protecting the public through its operations and programs.

Diversity, Equity, and Inclusion Considerations:

When preparing this report, diversity, equity, and inclusion considerations were made.

Background:

As part of its duties, the Finance and Audit Committee held a discussion with the external auditor, Hilborn LLP, to review the results of their audit and to determine if there were any issues, findings or concerns that needed to be addressed. Noting that there were no issues identified, the committee recommends that the Board approve the annual Audited Financial Statements.

Discussion:

The Finance and Audit Committee is pleased with the work performed by Hilborn LLP and accepts the external auditor's opinion on the Audited Financial Statements for the fiscal year ended May 31, 2024. Management and the committee advise the Board to approve the Audited Financial Statements as presented.

BOARD MEETING BRIEFING NOTE

Audited Financial Statements - Fiscal Year 2023/2024

Page 2 of 2

Implications:

If approved by the Board, the Audited Financial Statements will be recorded as finalized and included in the Annual Report to be distributed to the Minister of Health, registrants and other interested parties and placed on the College's website.

Attachments:

1. Audited Financial Statements of the College as at May 31, 2024
2. Audit Findings Communication for the year ended May 31, 2024

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

FINANCIAL STATEMENTS

MAY 31, 2024

Draft Statement Subject to Revision

HILBORN_{LLP}

Independent Auditor's Report

To the Board of Directors of the College of Occupational Therapists of Ontario

Opinion

We have audited the financial statements of the College of Occupational Therapists of Ontario (the "College"), which comprise the statement of financial position as at May 31, 2024, and the statements of operations, changes in net assets and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the College as at May 31, 2024, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the College in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other Information

Management is responsible for the other information. The other information comprises the information, other than the financial statements and our auditor's report thereon, in the annual report.

Our opinion on the financial statements does not cover the other information and we will not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information identified above and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated.

The annual report is expected to be made available to us after the date of our auditor's report. If, based on the work we will perform on this other information, we conclude that there is a material misstatement of this other information, we are required to report that fact to those charged with governance.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the ability of the College to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the College or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the financial reporting process of the College.

Independent Auditor's Report (continued)

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal control of the College.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the ability of the College to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the College to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

Toronto, Ontario
To be determined

Chartered Professional Accountants
Licensed Public Accountants

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Statement of Financial Position

May 31	2024 \$	2023 \$
ASSETS		
Current assets		
Cash	5,222,780	5,143,979
Current portion of long-term investments (note 3)	362,817	1,258,654
Prepaid expenses	51,359	55,819
	5,636,956	6,458,452
Long-term investments (note 3)	3,230,081	2,299,353
Capital assets (note 4)	240,497	223,060
	3,470,578	2,522,413
	9,107,534	8,980,865
LIABILITIES		
Current liabilities		
Accounts payable and accrued liabilities (note 5)	1,032,148	759,572
Deferred registration fees	4,645,941	4,429,932
	5,678,089	5,189,504
NET ASSETS		
Invested in capital assets	240,497	223,060
Internally restricted for hearings and independent medical exams (note 6)	400,000	400,000
Internally restricted for premises (note 7)	800,000	800,000
Internally restricted for sexual abuse therapy and counselling (note 8)	25,000	25,000
Internally restricted for enterprise wide IT system (note 9)	100,000	141,120
Unrestricted	1,863,948	2,202,181
	3,429,445	3,791,361
	9,107,534	8,980,865

The accompanying notes are an integral part of these financial statements

Approved on behalf of the Board of Directors:

Chair

Director

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Statement of Operations

Year ended May 31	2024 \$	2023 \$
Revenues		
Registration fees	4,691,567	4,529,524
Application fees	94,985	85,472
Investment income	241,865	151,309
	<u>5,028,417</u>	<u>4,766,305</u>
Expenses		
Salaries and benefits (note 10)	3,375,560	2,965,359
Rent	359,677	330,466
Investigations and resolutions (note 11)	268,384	41,926
Programs	246,711	261,311
Information technology	239,715	168,095
Other office operations	211,243	203,716
Enterprise wide IT system (note 9)	155,871	289,182
Professional fees	142,212	102,830
Board of Directors	138,517	166,446
Operational initiatives	113,779	71,198
Communications	92,951	94,664
Amortization	45,713	26,567
	<u>5,390,333</u>	<u>4,721,760</u>
Excess of revenues over expenses (expenses over revenues) for year	<u>(361,916)</u>	<u>44,545</u>

The accompanying notes are an integral part of these financial statements

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Statement of Changes in Net Assets

Year ended May 31, 2024

	Invested in capital assets \$	Internally restricted for hearings and independent medical exams \$	Internally restricted for premises \$	Internally restricted for sexual abuse therapy and counselling \$	Internally restricted for enterprise wide IT system \$	Unrestricted \$	Total 2024 \$
Balance, beginning of year	223,060	400,000	800,000	25,000	141,120	2,202,181	3,791,361
Excess of expenses over revenues for year (note 9)	-	-	-	-	(141,120)	(220,796)	(361,916)
Purchase of capital assets	63,150	-	-	-	-	(63,150)	-
Amortization of capital assets	(45,713)	-	-	-	-	45,713	-
Inter-fund transfers (note 9)	-	-	-	-	100,000	(100,000)	-
Balance, end of year	<u>240,497</u>	<u>400,000</u>	<u>800,000</u>	<u>25,000</u>	<u>100,000</u>	<u>1,863,948</u>	<u>3,429,445</u>

The accompanying notes are an integral part of these financial statements

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Statement of Changes in Net Assets

Year ended May 31, 2023

	Invested in capital assets \$	Internally restricted for hearings and independent medical exams \$	Internally restricted for premises \$	Internally restricted for sexual abuse therapy and counselling \$	Internally restricted for enterprise wide IT system \$	Unrestricted \$	Total 2023 \$
Balance, beginning of year	227,894	400,000	800,000	25,000	430,302	1,863,620	3,746,816
Excess of revenues over expenses (expenses over revenues) for year (note 9)	-	-	-	-	(289,182)	333,727	44,545
Purchase of capital assets	21,733	-	-	-	-	(21,733)	-
Amortization of capital assets	(26,567)	-	-	-	-	26,567	-
Balance, end of year	223,060	400,000	800,000	25,000	141,120	2,202,181	3,791,361

The accompanying notes are an integral part of these financial statements

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Statement of Cash Flows

Year ended May 31	2024 \$	2023 \$
Cash flows from operating activities		
Excess of revenues over expenses (expenses over revenues) for year	(361,916)	44,545
Adjustments to determine net cash provided by (used in) operating activities		
Amortization	45,713	26,567
Unrealized (gain) loss in fair value of long-term investments	(27,384)	494
Interest capitalized on long-term investments	(45,352)	(45,360)
Interest received on long-term investments capitalized in prior years	45,360	100,141
	(343,579)	126,387
Change in non-cash working capital items		
Decrease in prepaid expenses	4,460	9,822
Increase (decrease) in accounts payable and accrued liabilities	272,576	(215,668)
Increase in deferred registration fees	216,009	174,219
	149,466	94,760
Cash flows from investing activities		
Purchase of long-term investments	(1,829,228)	(1,492,000)
Proceeds from disposal of long-term investments	1,821,713	644,609
Purchase of capital assets	(63,150)	(21,733)
	(70,665)	(869,124)
Net change in cash	78,801	(774,364)
Cash, beginning of year	5,143,979	5,918,343
Cash, end of year	5,222,780	5,143,979

The accompanying notes are an integral part of these financial statements

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements

May 31, 2024

Nature and description of the organization

The College of Occupational Therapists of Ontario (the "College") was incorporated as a non-share capital corporation under the Regulated Health Professions Act ("RHPA").

As the regulator and governing body of the occupational therapy profession in Ontario, the major function of the College is to administer the Occupational Therapy Act in the public interest.

The College is a not-for-profit organization, as described in Section 149(1)(l) of the Income Tax Act, and therefore is not subject to income taxes.

1. Significant accounting policies

These financial statements have been prepared in accordance with Canadian accounting standards for not-for-profit organizations and include the following significant accounting policies:

(a) Revenue recognition

Registration fees

Registration fees are recognized as revenue in the fiscal year to which they relate. The registration year of the College coincides with that of the fiscal year of the College, being June 1 to May 31. Registration fees received in advance of the fiscal year to which they relate are recorded as deferred registration fees.

Application fees

Application fees are recognized as revenue when services are rendered.

Investment income

Investment income comprises interest from cash and investments, realized gains and losses on the sale of investments and unrealized gains and losses in the fair value of investments.

Revenue is recognized on an accrual basis. Interest on investments is recognized over the terms of the investments using the effective interest method.

(b) Investments

Investments consist of fixed income investments with maturity dates greater than twelve months from the date of acquisition. Investments that mature within twelve months from the year-end date are classified as current.

Notes to Financial Statements (continued)

May 31, 2024

1. Significant accounting policies (continued)

(c) Capital assets

The costs of capital assets are capitalized upon meeting the criteria for recognition as a capital asset, with the exception of expenditures on internally generated intangible assets during the development phase, which are expensed as incurred. The cost of a capital asset comprises its purchase price and any directly attributable cost of preparing the asset for its intended use.

Capital assets are measured at cost less accumulated amortization and accumulated impairment losses.

Amortization is provided for, upon commencement of the utilization of the assets, on a straight-line basis at rates designed to amortize the cost of the capital assets over their estimated useful lives. The annual amortization rates are as follows:

Furniture and fixtures	5 years
Computer equipment	3 years

Amortization of leasehold improvements is provided for on a straight-line basis over the remaining term of the lease.

A capital asset is tested for impairment whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. If any potential impairment is identified, the amount of the impairment is quantified by comparing the carrying value of the capital asset to its fair value. Any impairment of the capital asset is recognized in income in the year in which the impairment occurs.

An impairment loss is not reversed if the fair value of the capital asset subsequently increases.

Notes to Financial Statements (continued)

May 31, 2024

1. Significant accounting policies (continued)

(d) Financial instruments

Measurement of financial assets and liabilities

The College initially measures its financial assets and financial liabilities at fair value adjusted by, in the case of a financial instrument that will not be measured subsequently at fair value, the amount of transaction costs directly attributable to the instrument. Transaction costs of those financial assets and financial liabilities subsequently measured at fair value are recognized in income in the year incurred.

The College subsequently measures all of its financial assets and financial liabilities at amortized cost, with the exception of investments, which are measured at fair value. Changes in fair value are recognized in income in the year the changes occur. Fair values are determined by reference to published price quotations in an active market at year end.

Amortized cost is the amount at which a financial asset or financial liability is measured at initial recognition minus principal repayments, plus or minus the cumulative amortization of any difference between that initial amount and the maturity amount, and minus any reduction for impairment.

Financial assets measured at amortized cost include cash.

Financial assets measured at fair value include investments.

Financial liabilities measured at amortized cost include accounts payable and accrued liabilities.

Impairment

At the end of each year, the College assesses whether there are any indications that a financial asset measured at amortized cost may be impaired. Objective evidence of impairment includes observable data that comes to the attention of the College, including but not limited to the following events: significant financial difficulty of the issuer; a breach of contract, such as a default or delinquency in interest or principal payments; and bankruptcy or other financial reorganization proceedings.

When there is an indication of impairment, the College determines whether a significant adverse change has occurred during the year in the expected timing or amount of future cash flows from the financial asset.

When the College identifies a significant adverse change in the expected timing or amount of future cash flows from a financial asset, it reduces the carrying amount of the financial asset to the greater of the following:

- the present value of the cash flows expected to be generated by holding the financial asset discounted using a current market rate of interest appropriate to the financial asset; and
- the amount that could be realized by selling the financial asset at the statement of financial position date.

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

1. Significant accounting policies (continued)

(d) Financial instruments (continued)

Impairment (continued)

Any impairment of the financial asset is recognized in income in the year in which the impairment occurs.

When the extent of impairment of a previously written-down financial asset decreases and the decrease can be related to an event occurring after the impairment was recognized, the previously recognized impairment loss is reversed to the extent of the improvement, but not in excess of the impairment loss. The amount of the reversal is recognized in income in the year the reversal occurs.

(e) Pension plan

The College is an employer member of the Healthcare of Ontario Pension Plan (the "Plan"), which is a multi-employer defined benefit pension plan. Sufficient information is not available to the College to use defined benefit plan accounting, therefore, the College accounts for the Plan as a defined contribution pension plan. The College expenses pension contributions when made.

(f) Management estimates

The preparation of financial statements in conformity with Canadian accounting standards for not-for-profit organizations requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the current year. Actual results may differ from the estimates, the impact of which would be recorded in future years.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the year in which the estimates are revised and in any future years affected.

2. Financial instrument risk management

The College is exposed to various risks through its financial instruments. The following analysis provides a measure of the College's risk exposure and concentrations.

The financial instruments of the College and the nature of the risks to which those instruments may be subject, are as follows:

Financial instrument	Risks				
	Credit	Liquidity	Market risk		
Currency			Interest rate	Other price	
Cash	X			X	
Investments	X			X	
Accounts payable and accrued liabilities		X			

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

2. Financial instrument risk management (continued)

Credit risk

The College is exposed to credit risk resulting from the possibility that parties may default on their financial obligations, or if there is a concentration of transactions carried out with the same party, or if there is a concentration of financial obligations which have similar economic characteristics that could be similarly affected by changes in economic conditions, such that the College could incur a financial loss.

The maximum exposure of the College to credit risk is as follows:

	2024	2023
	\$	\$
Cash	5,222,780	5,143,979
Investments	3,592,898	3,558,007
	<u>8,815,678</u>	<u>8,701,986</u>

The College reduces its exposure to the credit risk of cash by maintaining balances with a Canadian financial institution.

The College manages its exposure to the credit risk of investments through its investment policy which restricts the types of eligible investments.

Liquidity risk

Liquidity risk is the risk that the College will not be able to meet a demand for cash or fund its obligations as they come due.

The liquidity of the College is monitored by management to ensure sufficient cash is available to meet liabilities as they become due.

Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk is comprised of currency risk, interest rate risk and other price risk.

Currency risk

Currency risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instruments will fluctuate due to changes in foreign exchange rates.

The College is not exposed to currency risk.

Interest rate risk

Interest rate risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instrument will fluctuate due to changes in market interest rates.

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

2. Financial instrument risk management (continued)

Other price risk

Other price risk refers to the risk that the fair value of financial instruments or future cash flows associated with the instruments will fluctuate because of changes in market prices (other than those arising from currency risk or interest rate risk), whether those changes are caused by factors specific to the individual instrument or its issuer or factors affecting all similar instruments traded in the market.

The College is not exposed to other price risk.

Changes in risk

There have been no significant changes in the risk profile of the financial instruments of the College from that of the prior year.

3. Investments

	2024 \$	2023 \$
Provincial and municipal bonds	725,749	720,647
Guaranteed investment certificates	2,867,149	2,837,360
	3,592,898	3,558,007
Less: current portion	362,817	1,258,654
Long-term portion	3,230,081	2,299,353

The investments have effective interest rates ranging from 2.09% to 5.02% (2023 - 2.09% to 4.73%), with maturity dates ranging from June 2024 to June 2029 (2023 - June 2023 to May 2028).

4. Capital assets

	Cost \$	Accumulated Amortization \$	2024 Net \$
Furniture and fixtures	323,846	321,614	2,232
Computer equipment	519,631	465,522	54,109
Leasehold improvements	502,091	317,935	184,156
	1,345,568	1,105,071	240,497
	Cost \$	Accumulated Amortization \$	2023 Net \$
Furniture and fixtures	323,846	320,870	2,976
Computer equipment	456,481	438,969	17,512
Leasehold improvements	502,091	299,519	202,572
	1,282,418	1,059,358	223,060

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

5. **Accounts payable and accrued liabilities**

	2024	2023
	\$	\$
Accounts payable and accrued liabilities	353,620	212,645
Accrued liabilities - investigations and resolutions	205,641	86,099
Government remittances	472,887	460,828
	<u>1,032,148</u>	<u>759,572</u>

6. **Net assets internally restricted for hearings and independent medical exams**

The Board of Directors of the College has internally restricted net assets to cover costs for conducting discipline hearings, fitness to practice hearings, Health Professions Appeal and Review Board appeal hearings, other hearings that may arise related to the regulation of the profession, and independent medical exams.

The internal restriction is subject to the direction of the Board of Directors upon the recommendation of the Finance and Audit Committee.

7. **Net assets internally restricted for premises**

The Board of Directors of the College has internally restricted net assets to minimize the impact of major expenses related to College property such as leasehold improvements and other capital expenditures.

The internal restriction is subject to the direction of the Board of Directors upon the recommendation of the Finance and Audit Committee.

8. **Net assets internally restricted for sexual abuse therapy and counselling**

The Board of Directors of the College has internally restricted net assets to cover costs for the funding of therapy and counselling of occupational therapist clients.

The internal restriction is subject to the direction of the Board of Directors upon the recommendation of the Finance and Audit Committee.

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

9. Net assets internally restricted for enterprise wide IT system

The Board of Directors of the College has internally restricted net assets to provide for the cost of implementing and/or maintaining an enterprise-wide, registrant-based information technology system that will support the delivery of the statutory College mandate in an efficient and effective manner.

During the year, \$155,871 was spent in connection with the enterprise wide IT system with only \$141,120 applied against the internally restricted net assets for enterprise wide IT system. This resulted in a decrease in the net assets internally restricted for enterprise wide IT system from \$141,120 to nil.

During the year, the Board of Directors approved a transfer of \$100,000 from unrestricted net assets to net assets internally restricted for enterprise wide IT system. This resulted in an increase in the net assets internally restricted for enterprise wide IT system from nil to \$100,000.

During the prior year, \$289,182 was spent in connection with the enterprise wide IT system. This resulted in a decrease in the net assets internally restricted for enterprise wide IT system from \$430,302 to \$141,120.

The internal restriction is subject to the direction of the Board of Directors upon the recommendation of the Finance and Audit Committee.

10. Multi-employer pension plan

Effective June 5, 2023, the College became a participating employer in the Plan. Employees of the College are members of the Plan and will receive retirement benefits based on the member's contributory service, the highest average annualized earnings during any consecutive five-year period, and the most recent three-year average year's maximum pensionable earnings. As at December 31, 2023, the Plan is 115% funded. Contributions to the Plan made during the year ended May 31, 2024 by the College on behalf of its employees amounted to \$237,743 (2023 - nil) and are recorded in salaries and benefits in the statement of operations. Employee contributions to the Plan during the year ended May 31, 2024 were \$188,685 (2023 - nil).

11. Investigations and resolutions

	2024	2023
	\$	\$
Costs incurred	148,842	115,563
Adjustment of estimate to resolve open cases	119,542	(73,637)
	<u>268,384</u>	<u>41,926</u>

Investigations and resolutions include an estimate of costs to resolve open cases at year end. These estimates are determined based on historical average costs and relevant case facts available. The actual outcome of each case may differ from the initial estimate.

COLLEGE OF OCCUPATIONAL THERAPISTS OF ONTARIO

Notes to Financial Statements (continued)

May 31, 2024

12. Commitment

The College is committed to lease its office premises until September 2033. The future annual lease payments, including an estimate of premises common area expenses, are as follows:

	<u>\$</u>
2025	397,440
2026	409,758
2027	415,917
2028	428,235
Subsequent years	<u>2,386,572</u>
	<u><u>4,037,922</u></u>

13. Contingencies

The College is party to legal matters in the ordinary course of its business.

While it is not feasible to predict the outcome of these matters, the College has no reason to believe that the resolution of these matters will have a material adverse impact on its financial position, results of operations or the ability to carry on any of its business activities. No provision for loss has been recorded in these financial statements.

Draft Statement Subject to Revision

HILBORN

LISTENERS. THINKERS. DOERS.

College of Occupational Therapists of Ontario
Audit Findings Communication for the year ended May 31, 2024

A message from Blair MacKenzie to the Finance and Audit Committee

I am pleased to provide you with the findings of our audit of the financial statements of the College of Occupational Therapists of Ontario (the “College”) for the year ended May 31, 2024.

Our audit findings communication is designed to highlight and explain key issues, which we believe to be relevant to the audit and to continue effective two-way communication with you regarding our audit. This will assist the Finance and Audit Committee in fulfilling your responsibility of overseeing the financial reporting process of the College.

This communication has been prepared to comply with the requirements outlined in Canadian Auditing Standard 260, *Communication with those Charged with Governance*. The information in this document is intended solely for the use of the Finance and Audit Committee, Board of Directors and management and should not be distributed to others without our consent.

We look forward to discussing our audit findings with you in detail as well as any other matters that you may wish to address at our meeting scheduled for September 24, 2024.



Blair MacKenzie, CPA, CA
Managing Partner
Hilborn LLP
September 5, 2024

**“Our
commitment
to quality is
reflected in
every aspect
of our work.
If you have
any questions
or comments,
please contact
me.”**



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Significant Qualitative Aspects of the College’s Accounting Practices	4
Other Significant Matters	5 – 7

Your client service team

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“At Hilborn, we are committed to audit quality and strong client service. Audit quality is integral to our business and is an overarching consideration in our training, our processes, and our systems and controls.”

Executive Summary



Audit status

We have substantially completed our audit of the financial statements of the College for the year ended May 31, 2024, with the exception of the following procedures:

- Completion of subsequent events procedures
- Receipt of the signed management representation letter
- Board of Director's approval of the financial statements

These procedures require completion before we may issue our auditor's report. If we become aware of significant matters after completing these procedures, we will bring them to your attention.



Auditor's report and representations from management

We expect to issue an unmodified opinion. The expected form and content of our report is included in the draft financial statements issued..

The management representation letter is expected to be consistent with that issued in our pre-audit communication. We ask management to sign and return the letter to us before we issue our auditor's report.



Independence

We are independent and have been so throughout the audit process. We have complied with all relevant ethical requirements regarding independence.

We have not performed any non-audit related services.



Management cooperation

No difficulties were encountered while performing the audit and there are no unresolved disagreements. We received full cooperation from management during our audit.



Changes from the audit plan

Our audit approach was consistent with the approach communicated to you in our audit plan dated May 10, 2024.

Final materiality is consistent with preliminary materiality set at \$215,000.

Significant Qualitative Aspects of the College’s Accounting Practices

Canadian Auditing Standards require that we communicate with you about significant qualitative aspects of the entity’s accounting practices, including accounting policies, accounting estimates and financial statement disclosures.

Accounting policies, accounting estimates and financial statement disclosures

Hilborn’s response and views

Management is responsible for the appropriate selection and application of accounting policies under the financial reporting framework of Canadian accounting standards for not-for-profit organizations.

Our role is to review the appropriateness and application of these policies as part of our audit. The accounting policies used by the College are described in Note 1, Significant Accounting Policies, in the financial statement.

There were no significant changes in the previously adopted accounting policies or their application.

Based on the audit work performed, the accounting policies are appropriate for the College and applied consistently.

Management is responsible for the accounting estimates included in the financial statements. Estimates and the related judgements and assumptions are based on management’s knowledge of the business and past experience about current and future events.

Based on the audit work performed, we are satisfied that the estimates made by management are reasonable in the context of the financial statements taken as a whole.

Management is responsible for the disclosures made within the financial statements, including the notes to the financial statements.

Based on the audit work performed, we are satisfied that the overall presentation, structure and content of the financial statements, including the disclosures, represent the underlying transactions and events in a manner that achieves fair presentation.

Other Significant Matters

In accordance with Canadian Auditing Standards, there are a number of required communications between the auditor and those charged with governance related to the oversight of the financial reporting process. Those communications will primarily be written in the form of our audit plan and audit findings communication. We may also communicate orally through discussions. The table below summarizes the communications required at the conclusion of the audit.

Significant Matter	Discussion
Summary of uncorrected misstatements	We did not identify any misstatements that remain uncorrected in the financial statements.
Corrected misstatements	During the course of the audit, management and Hilborn LLP worked collaboratively to identify adjustments required to the financial statements. All adjustments recorded were reviewed and approved by management.

Significant Matter	Discussion
<p>Significant deficiencies in internal control</p>	<p>An increased risk profile exists at the College relative to the lack of segregation of incompatible duties. The segregation of incompatible duties is a key internal control intended to minimize the occurrence of errors or fraud. The principle of segregating incompatible duties encompasses the division of responsibilities of a key process such that no one individual performs two or more of the functions related to custody, initiation, authorization, execution, recording and reporting.</p> <p>This risk is inherent in small to medium sized organizations and should not be interpreted negatively. From a cost-benefit perspective, it would not be practical to segregate incompatible duties to a sufficient degree to mitigate this risk, as it would require additional personnel that may not be appropriate otherwise.</p>
<p>Fraud and non-compliance with laws and regulations</p>	<p>No fraud or non-compliance with laws and regulations came to our attention during the course of the audit.</p> <p>We would like to reconfirm with the Finance and Audit Committee that you are not aware of any fraud or non-compliance with laws and regulations not previously discussed with us.</p>
<p>Related party transactions</p>	<p>We did not identify any related parties or related party transactions.</p>
<p>Subsequent events</p>	<p>No subsequent events, which would impact the financial statements have come to our attention.</p>

Significant Matter	Discussion
Performance improvement point	The current threshold for capitalization of assets, in the amount of \$3,000, as defined in the Capital Asset Control policy, was not adhered to during the year. In addition, the College may wish to revisit and update the policy which was last updated October 2005.

HILBORN

LISTENERS. THINKERS. DOERS.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: Draft Annual Report for 2023-2024

Recommendation:

THAT the Board approve the Annual Report for the 2023-2024 fiscal year for distribution.

Issue:

The Board is asked to review the annual report and approve it for distribution.

Link to Strategic Plan:

Performance and Accountability: The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

The report summarizes accomplishments for the 2023-2024 fiscal year, which ended on May 31, 2024. This report concludes the 2020-2024 strategic plan, and also would address the previous strategic priority of public confidence.

Why this is in the Public Interest:

Ensuring that the College meets its public protection mandate and operates in a fiscally prudent manner serves the public interest.

Diversity, Equity, and Inclusion Considerations:

When preparing the Annual Report, the varied audiences that may review the report are considered and attempts are made to reduce the use of complex terminology. Images are selected to represent the diversity of the profession and the clients we serve.

Background:

As per the *Regulated Health Professions Act, 1991*, each College is required to report annually to the Ministry on its activities and financial affairs.

A digital version of the Annual Report has been prepared and is available for review at the following link:

https://www.coto.org/annual_reports/2024/annualreport/

Committee reports are now included, and publicly available, in Board packages and referenced as such in the Annual Report.

BOARD MEETING BRIEFING NOTE

Draft Annual Report for 2023-2024

Page 2 of 2

Draft financial statements have been provided by the auditor. Following approval of the statements at the October Board meeting, the auditor will provide final statements for inclusion in the report with signature added and watermark removed.

Discussion:

The Annual Report for the 2023-2024 fiscal year has been prepared and is presented to the Board for approval.

Implications:

If approved by the Board, the report will be distributed electronically to registrants, the Ministry of Health, and interested parties. In addition, it will be posted on the College's website.

Attachments: N/A

Q1 2024-2025 Quarterly Performance Report

The purpose of this report is to provide quarterly information on program and committee activities that relate to the 2024-2027 identified strategic priorities. Some metrics have been included for information purposes and anomalies will be explained.

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

General Legend:

Health Professions Appeal and Review Board (HPARB).

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

Average Case Time: Average time for closed cases from when the case is received to the date the decision is sent out.

Brackets around numbers (i.e. (34)): Corresponding data from the same quarter the previous year.

Specific program Legend's with associated acronyms are included in each section.

Executive

Chair: Neelam Bal

Strategic Priorities: Public Confidence, Quality Practice

Workplan 2024/2025	Strategic Plan
	Possible RHPA and or Governance model changes
	Board Orientation, Education, and Policy Review
	Oversight of Risk Management and Registrar
	2025 Elections of Board Directors
	Exam and Accreditation (high level oversight monitoring)
	Review of College Performance Measurement Framework (CPMF)

Q1	Committee Activities: 1) <u>July 3, 2024</u> : <i>In camera</i> meeting to discuss a confidential matter, 2) <u>August 7, 2024</u> : <i>In camera</i> meeting for the annual registrar performance review, 3) <u>August 8, 2024</u> : Meeting to discuss the 2024-2025 budget related to the website redesign, as well as an <i>in-camera</i> discussion on a confidential matter.
	Decisions Not Requiring Board Approval: 2024-2025 budget related to website redesign
	Decisions Requiring Board Approval: N/A

Governance

Chair: Neelam Bal

Strategic Priorities: Public Confidence, System Impact

Workplan 2024/2025	Operationalize the remaining pieces of the governance workplan – reducing the board size
	Implement the remaining third-party report action items
	Update the Board and Committee meeting evaluation tools
	Finalize the Governance Manual

Q1	Committee Activities: <u>June 5, 2024</u> . Meeting including orientation, review of revisions to the Governance and Finance and Audit committees' terms of reference, review of two new governance policies, <i>Supporting Positive Relationships</i> and <i>Role of the College Committees</i> , review of <i>Role of the Registrar</i> policy then brought before the Executive Committee for review prior to bringing to the Board for final approval.
	Decisions Requiring Board Approval: Terms of Reference (Governance, and Finance and Audit); <i>Supporting Positive Relationships</i> policy; <i>Role of College Committees</i> policy.

Finance and Audit Committee

Chair: Allan Freedman

Strategic Priorities: Public Confidence, System Impact

Workplan 2024/2025	Review quarterly financial reports and annual projected budget for recommendation to the Board
	Review draft audited financial statements for recommendation to the Board
	Review updated five-year financial forecast
	Review internal controls matrix
	Review investment portfolio to determine if policy changes are warranted
	Review and update policies governing financial and investment matters
	Review property/non-liability and liability/crime/E&O insurance coverages to assess sufficiency
	Evaluate auditor performance and determine if re-appointment or selection of new auditor is appropriate; recommend to the Board

Q1	Committee Activities: A meeting was held on <u>August 20, 2024</u> , during which the committee reviewed its mandate and work plan, along with the draft minutes from the Finance and Audit meeting held on May 21, 2024. The committee also reviewed and discussed the draft audited financial statements for FY23/24 prepared by Hilborn auditors, the FY23/24 Q4 Financial Summary Report, the FY23/24 Q4 Investment Report, and the Internal Control Matrix.
	Finance Report: FY23/24 draft audited financial statements prepared by Hilborn auditors, FY23/24 Q4 Financial summary report, FY23/24 Q4 Investment Report, and the Internal Control Matrix were presented and reviewed by the Finance and Audit Committee for informational purposes only.
	Decisions Requiring Board Approval: N/A

Registration

Chair: Christine Farrell

Strategic Priorities: Public Confidence, Qualified Registrants

Registration Legend:

Internationally Educated (IE): Occupational therapists that attended university outside of Canada.

Workplan 2024/2025	Receive quarterly Registration Performance reports and make recommendations with regards to policy
	Provide quarterly registration and application rulings per registration policies
	Recommend Diversity, Equity and Inclusion Data Collection policy for approval by the board by end of Q3
	Recommend new Re-Entry to Practice Policy for approval by the board by end of Q4

Q1	Metrics									
	7027 Registrants				Application Processing Time 52.4* Avg in Weekdays *shortest 3 days, longest 519 days			Practicing without a Certificate	Expired Certificates	
	53 Certificates Issued			Resigned	CAN	IE	Returning		Provisional	Temporary
	CAN	IE	Returning							
	10	6	37	35	36 *shortest 3 days, longest 123 days	38.1 *shortest 12 days, longest 81 days	59.2 *shortest 3 days, longest 519 days for re-entry application	0	0	1 (OT switched over to full general registration)
	Commentary:									
	Registration Committee Cases					Meetings Held	Response Compliance	HPARB Appeals	Policies Reviewed	
	Type		New	Resolved	Avg Case Time					
	Currency		6	6	59.2	1	6	0	2/15	
	Education		0	0						
Examination		0	0							
Language		0	0							
Second Provisional Certificate		0	0							
Suitability to Practice		0	0							
Outcomes	6 Temporary Certificates were issued for practice under supervision until completion of Re-Entry to Practice Program (Currency)									

Committee Activities: Review of Re-Entry to Practice Policy; Review and recommend Emergency Class of Registration Policy; Received information and recommended collection of additional demographic data based for Race-Based and Indigenous Identity; Received information with regards to Q1 Registration Data Processing Report for Ontario Health

Decisions Requiring Board Approval: Emergency Class of Registration Policy; and Collection of Additional Demographic Data Related to Indigenous and Race Identity

Inquiries, Complaints and Reports Committee (ICRC)

Chair: Stephanie Schurr

Strategic Priorities: Public Confidence, Quality Practice

Investigations and Resolutions Legend:

No Risk Outcomes: Frivolous and Vexatious, Take No Action, Alternative Dispute Resolution (ADR)

Low Risk Outcomes: ADR, Advice/Guidance, Remedial Agreements/Undertakings

Moderate Risk Outcomes: Undertaking, Oral Caution, Specified Continuing Education and Remedial Program (SCERP)

High Risk Outcomes: Undertaking with Restrictions, Undertaking Agreeing to Resign and Never Reapply, Referral to Discipline or Fitness to Practise

Workplan 2024/2025	By way of the panels, take action in accordance with the requirements of the Code and the RHPA including rulings about complaints, investigations and reports
	Consider feedback provided, where available, from the Health Professions Appeal and Review Board (HPARB) as related to complaint decisions of the ICRC
	Inquire into whether a registrant is incapacitated and take appropriate action in accordance with sections 58 to 63 of the Code
	Advise the Board on the development and maintenance of policies and procedures governing the inquiries, complaints, and reports processes

Q1	Cases			Meetings Held	HPARB Appeals
	Type	New	Resolved		
	Registrar's Report Investigations	1	3	Cases: 230 days	Panel A = 2 Panel B = 1 All ICRC = 0 1 x RR – Divisional Court 1 x C - HPARB
	Complaints	10	2	Reports: 444 days	
	Inquiries	0	1		
	Outcomes	Registrar Report Investigations: 2 x Undertakings, 1 x SCERP (appeal pending) Complaints: 1 x Take No Action, 1 x Advice and Guidance Inquiries: 1 x referral to Fitness to Practise Registrar Action (no ICRC involvement): 5 reports received – 2x closed with no action, 1x closed with advice and guidance, 1x Appointed an Investigator, 1x pending			
	Commentary: The health inquiry referral to Fitness to Practise represents the College's first ever referral to this committee. An interim order was also ordered by the ICRC in this matter for terms, limitations and conditions to be placed on the registrant's certificate.				
	Committee Activities: N/A				
	Decisions Requiring Board Approval: N/A				
	Notes: N/A				

Quality Assurance (QAC)

Chair: Heather McFarlane

Strategic Priorities: Public Confidence, Quality Practice

Quality Assurance Legend:

Dashboard: Quality Assurance Program Performance Metrics which will continue to evolve as COTO integrate the data from QA activities into the COTO Portal

Quality Assurance Committee (QAC): Statutory committee

Quality Assurance Subcommittee (QAS): Non-statutory committee made up of OTs that serve as subject matter experts

Competency Assessment: Registrants participate in a 2-stage assessment process including Professional

Annual eLearning Plan: 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.

Risk-Based Selection (RBSA): Registrants are selected to take part in the competency assessment process based on 18 risk factors. This column indicates the latest selection of registrants and is broken down to include; total registrants selected, # that received a deferral and total remainder (total minus deferred). Additional selections to be reflected as they occur.

Workplan 2024/2025	Quality Practice: Recommend approval of 2026 annual eLearning module topic Q2
	Quality Practice: Develop national e-Learning module (ACOTRO) - Cultural humility and culturally safer OT practice Q4+
	Quality Practice: Recommend approval of Competency Assessment process and tools (assessment, decision frameworks, threshold for QAC review and risk-based selection) Q3
	Quality Practice: Administer and complete 100-110 competency assessments annually
	Quality Practice: Continuous data driven quality improvement of QA activities on a quarterly basis
	Quality Practice: Development of mini assessment to be used with clinical and non-clinical OTs Q4+
	Performance & Accountability: Continuous data driven quality improvement (data from registrants, peer assessors, public etc.)
	Performance & Accountability: Recommend approval of QA policy Q2/Q3

Q1	Metrics								
	Competency Assessment								
	Risk-Based Selection (cohort 3)		Competency Assessment (CA) Completed Q1		CA in Progress	% Total Annual CA Completed	Additional Q1 Directed CA's		
	Selected = 65 deferred= 15 accommodation: 0 in progress=50		Assessment period in progress (Aug 20- Nov 7 th)		50	In progress	1		
	Annual Requirement								
	eLearning Module (due Oct 31, 2024)		2173/7075 completed (as of Oct 2 nd)		Annual Learning Plan (due Oct 31, 2024)	3,686/7,262 completed (as of Oct 2 nd)			
	Committee								
	QAC Cases / Decisions				SCERP in Progress	Non-compliance with SCERP	Average File Time	QAC Meetings	Policies Review
	Type	Deliberated	Learning needs identified	Outcomes					
	Competency Assessment	N/A	0= 1= 2= 3= 4= 5+= <i>Data available after Nov 7th</i>	%_ Successful Completion % _ Successful Completion with a Recommendation % _ Specified Continuing Education or Remediation Program (SCERP) %_ other <i>Data available after Nov 7th</i>	0	0	N/A	2	N/A
	Non-Compliance with annual requirements	N/A	N/A	Data available in Q3 after QAC decision					
	Registrant Experience Survey: value (% satisfaction), principles (% satisfaction), support (% satisfaction)								
	Knowledge Exchange: 1 student placement, 2 resources in development, 3 communications to registrants in newsletter, 3 surveys administered (registrants, peer assessors, citizen advisory group)								
	Commentary: N/A								

<p>QAC Activities: QAC met on <u>June 3, 2024</u> and <u>June 19, 2024</u> for deliberations, developed two decision making frameworks and discussed next steps regarding a non-clinical assessment.</p> <p>QAS Activities: QAS did not meet during Q1</p> <p>Peer Assessors: Met once for training on revised assessment</p>
<p>Decisions Requiring Board Approval: N/A</p>

Discipline

Chair: Stephanie Schurr

Strategic Priorities: Public Confidence, Quality Practice

Workplan 2024/2025	Process cases going through Discipline Exploring and making a recommendation on whether or not to participate in the Health Professionals Discipline Pilot Tribunal (HPDPT)
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Q1	Case Status			Case Time	Outcomes	Response Compliance	Appeals
	New	Pending	Resolved				
	0	2	0	Not tracked		N/A	N/A
Commentary: The pending matters are set for uncontested hearings on October 16 and November 21, 2024.							
Committee Activities: N/A							
Decisions Requiring Board Approval: None							

Patient Relations

Chair: Sabrina Shaw

Strategic Priorities: Quality Practice, Public Confidence

Workplan 2024/2025	<p>Meaningful Engagement The College builds trust in its role and value through purposeful and meaningful engagement and collaboration. 1.1 Provides clear information about what to expect when working with occupational therapists. 1.2 Builds opportunities for public and professional collaboration and participation with the College 1.4 Integrates the practices of diversity, equity, and inclusion throughout the College and profession</p>
	Oversight of the Sexual Abuse Counselling Fund
	Develop and review patient relations documents and communications available to the public

Q1	Funding Applications: 0 new applications received
	Commentary: 0 clients accessing the sexual abuse counselling fund
	Committee Activities: The patient relations committee met <u>June 6, 2024</u> . Committee received the annual orientation. Committee members attended the unconscious bias training on June 7, 2024.
	<p>Public Education:</p> <ul style="list-style-type: none"> • Document development: Understanding Privacy Legislation for Patients/Public <p>Registrant Education:</p> <ul style="list-style-type: none"> • Document development in progress: Sexual Abuse Mandatory reporting requirements.
	Decisions Not Requiring Board Approval: N/A
Decisions Requiring Board Approval: N/A	

Fitness to Practise

Chair: Vincent Samuel

Strategic Priorities: Quality Practice

Workplan 2024/2025	Process cases going through Fitness to Practise Conduct an orientation session with the entire committee
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	Case Status			Case Time	Outcomes	Response Compliance	Appeals
	New	Pending	Resolved				
	1	0	0	Not tracked		N/A	N/A
Q1	Commentary: The 1 matter is the first for Fitness to Practise. No hearing has been scheduled as the College hopes to resolve this without the need for a hearing on the merits.						
	Committee Activities: N/A						
	Decisions Requiring Board Approval: None						

Practice Subcommittee

Chair: Stacey Anderson

Strategic Priorities: Quality Practice, System Impact

Workplan 2024/2025	Update all practice guidance documents
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Q1	402 Inquiries			Same Day Response	Top OT Themes	Top Public Themes	Complexity of Inquiries
	OT	Public	Other				
	304	35	63	98%	<ol style="list-style-type: none"> Record Keeping Consent Duty to Warn 	<ol style="list-style-type: none"> Use of Title Other OT Assessment/ Intervention 	<ol style="list-style-type: none"> 76% Straightforward 24% Complex +/- Consultation >1% Escalation
Program Activities:							
Strategic Objectives: Meaningful Engagement							
Outreach:							
<ul style="list-style-type: none"> McMaster University outreach to second-year OT students on the complexities of entering practice. 							
Collaboration with System Partners:							
<ul style="list-style-type: none"> Infection Prevention and Control (IPAC) Regulatory College Working Group Canadian Association of Occupational Therapists - discussions on mental health and psychotherapy 							
Committee Activities:							
<p>The Practice Subcommittee did not have a meeting this quarter</p> <ul style="list-style-type: none"> Subcommittee members attended the College sponsored unconscious bias training on June 7, 2024. 							
Documents in Progress:							
<ul style="list-style-type: none"> Artificial Intelligence Guidance (draft) Managing Risks in Occupational Therapy Practice Ongoing review and updating of practice guidance documents to align with Standards of Practice and Competencies. 							
Decisions Requiring Board Approval (Through Executive Committee):							
<ul style="list-style-type: none"> College response to the Chief Coroner of Ontario's request concerning an entrapment death from a recommended transfer pole Artificial Intelligence Guidance for occupational therapy practice 							

Nominations Committee

Chair: Jennifer Henderson

Strategic Priorities: Public Confidence

Workplan 2024/2025	Selection and Recommendation of Candidates for Committee Appointments
	Board Elections
	Oversight of Executive Officer Nominations Process
	Oversight of Committee Chair Appointment Process

Q1	Committee Activities: 1) <u>June 9, 2024</u> : Meeting to debrief on the recruitment campaign including the candidate selection and interview process. Discussion held to update and improve the scoring sheets and interview questions. Committee reviewed new draft <i>Screening, Selection and Appointment of Professional and Community Appointees Policy</i> .
	Decisions Not Requiring Board Approval: N/A
	Decisions Requiring Board Approval: <i>Screening, Selection and Appointment of Professional and Community Appointees Policy</i>

Indigenous Insights Advisory Committee

Chair: Ian Connolly

Strategic Priorities: Meaningful Engagement, Quality Practice

The Indigenous Insights Advisory Committee (the “Committee”) primary function is to explore, discuss and provide recommendations on current OT Practice issues relevant to Indigenous Peoples.

Workplan 2024/2025	To conduct a regular environmental scan on OT practices in relation to the health needs of all Indigenous Peoples
	To identify current practice issues impacting Indigenous Peoples for consideration and possible action by the Executive Committee
	To act as an advisory committee on OT practice & Indigenous Peoples to other committees
	To make recommendations for action on specific practice issues related to Indigenous Peoples
	To develop, review and revise College resources related to practice & Indigenous Peoples as directed by Board
	To make recommendations for action on specific patient relations issues related to Indigenous Peoples

Q1	Commentary: N/A
	Committee Activities: The committee met on <u>July 18, 2024</u> . Committee members attended the College sponsored unconscious bias training on June 7 th , 2024.
	Decisions Requiring Board Approval: N/A

Equity Perspectives Advisory Committee

Chair: Adebimpe Egbeyemi

Strategic Priorities: Meaningful Engagement, Quality Practice

The Equity Perspectives Advisory Committee (the “Committee”) primary function is to explore, discuss and provide recommendations on current OT Practice issues relevant to Equity, Diversity, and Inclusion (EDI).

Workplan 2024/2025	To conduct a regular environmental scan on OT practices & EDI
	To identify current practice issues impacting EDI for consideration and possible action by the Executive Committee
	To act as an advisory committee on EDI to other statutory and non-statutory committees
	To make recommendations for action on specific practice issues related to EDI
	To develop, review and revise College resources related to practice & EDI as directed by Board
	To make recommendations for action on specific patient relations issues related to EDI

Q1	Commentary: N/A
	Committee Activities: The Equity Perspectives Advisory Committee did not have a meeting this quarter Committee members attended the College sponsored unconscious bias training on June 7 th , 2024.
	Decisions Requiring Board Approval: N/A

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: Risk Management Report

Recommendation:

THAT the Board receive the Risk Management Report.

Issue:

The Board, in its policy RL12, requires that information on risks, to aid the Board in discharging its risk management oversight role, shall be complete and appropriate. The Board has delegated the oversight of the Risk Management Program to the Executive Committee. The entire risk register was presented to the Executive Committee in May 2024 so that they could review all the risks anticipated by the staff, review the treatment of each risk and affirm that the risk levels are appropriate. In addition, the high and critical risks have been identified which have been brought to the Board for their review.

Link to Strategic Plan:

This aligns under Performance and Accountability

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

4.1 Ensures College governance is proactive, effective, competency-based and accountable.

Why this is in the Public Interest:

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 the Board.

Diversity, Equity, and Inclusion Considerations:

The considerations related to Diversity, Equity and Inclusion, are on the risk register for review and action planning, and, while important, have not been categorized as high or critical at this time.

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.

BOARD MEETING BRIEFING NOTE

Risk Management Report

Page 2 of 6

Recommendations from the evaluation report of Board effectiveness, that was presented at the January 2024 Board meeting included a suggestion to outline practice risks more clearly. Staff have identified a methodology to do this and have worked over the past few months to document risks, mitigation strategies and residual risks. None of these risks are considered high or critical at the moment so aren't included in the report at this time. However, these risks will be presented to the Board at today's meeting.

It is recommended that the risk related to the Enterprise System now be removed from the report to the Board. The system is deployed and is functioning. And while work continues, this is no longer considered a high risk.

October 24, 2024

BOARD MEETING BRIEFING NOTE

Risk Category	STRATEGIC
Risk:	<p>Health Human Resources</p> <p>In the current environment, the availability of health care personnel has reached a crisis level for governments across the country. This includes Ontario. Government will be looking for data, ideas and support to implement and HHR strategies. There is a risk that the strategies may not align or will cause negative unforeseen consequences. e.g. registration of incompetent individuals.</p>
Control Procedure(s)	<ol style="list-style-type: none"> 1. Membership with Health Profession Regulators of Ontario (HPRO) 2. Establishing and sustaining positive government relationships. 3. Standard processing times for applications for registration.
Action Plan & Monitoring Process	<p>Monitor through:</p> <ol style="list-style-type: none"> 1. HPRO meetings and working group participation. 2. Ministry updates, response to Ministry consultation 3. College networking updates 4. Monitoring government processes put in place for other professions. <p>Action Plan:</p> <ol style="list-style-type: none"> 1. Working with the SEAS program to support their timely assessment of international applicants. 2. Leveraging our data. 3. Maintaining open communication with the provincial OT association and government re: any relevant initiatives. 4. Discussion with Ministry of Health Representatives as appropriate.

BOARD MEETING BRIEFING NOTE

Risk Category	STRATEGIC
Risk:	Finances <p>The College has reviewed its financial health to ensure it can operate effectively now and into the future. Budget deficits were planned for fiscal year 2023/24 and for the 2024/25 year, resulting in decreased reserves as the reserves fund the deficit. A 2% fee increase was implemented for the 2024 annual renewal cycle, and the bylaws allow for fee increases of up to 2% for the next four years as determined each year by the Board. Based on the budget for this year, it is seeming likely that a further 2% increase will be needed for the next renewal period as well. The risk is further negative reactions from registrants if further increases are implemented but financial strain to COTO if they are not implemented.</p>
Control Procedure(s)	<ol style="list-style-type: none">1. The Finance and Audit Committee have carefully reviewed the budget to ensure their understanding of college finances.2. A communications plan is underway to assist with any further issues or concerns that arise once annual renewal begins.3. Bylaws are in place to support up to 2% increases for the next 4 years if necessary.
Action Plan & Monitoring Process	Monitor through: <ol style="list-style-type: none">1. Careful attention to budget and spending. Action Plan: <ol style="list-style-type: none">1. Continue to implement the communications plan during renewal.

BOARD MEETING BRIEFING NOTE

Risk Management Report

Page 5 of 6

Risk Category	OPERATIONAL
Risk:	Enterprise System project Updates on our system work: <ul style="list-style-type: none">• Our system is now live.• Annual renewal has occurred with the new system.• New individuals can apply.• Quality Assurance Tools available• Data is migrated and the public register is live.• Our old data base has been decommissioned as of March 31, 2024
Control Procedure(s)	<ol style="list-style-type: none">1. Dedicated resources for IT operations2. Back ups of old current data base as repository of old information.3. Leadership closely monitoring and facilitating the progression of the work.
Action Plan & Monitoring Process	Action Plan: <ol style="list-style-type: none">1. Next steps for the project will be to design the system for use with Investigations and Resolutions.2. Ongoing financial reserves to be monitored for development and maintenance of this critical College infrastructure.

It is recommended that this risk can now be removed from the report to the Board. It will continue to remain on the Risk Register for monitoring but is recommended to be downgraded to a moderate risk from its current high-risk rating.

October 24, 2024

BOARD MEETING BRIEFING NOTE

Risk Category	STRATEGIC
Risk:	Public Member Complement <p>There is a risk that the Board could become unconstituted due to lack of public appointments. The Board has 5 of 7 appointments filled which is the minimum number. In addition, as the College only has the minimum complement of public members, the result is a high workload for existing public members. We have left a public member vacancy on the Patient Relations committee.</p> <p>In addition, should we need public members for any discipline hearings we will run short of public members without a conflict of the case with another committee.</p>
Control Procedure(s)	<p>Bylaws are in place to support actions by the Executive Committee as necessary. That is, if the Board were to become unconstituted, the Executive Committee would act in place of the Board for general decisions, however, Discipline Committee activities would be impacted.</p>
Action Plan & Monitoring Process	Monitor through: <ul style="list-style-type: none">1. Monitor Board appointments and term end dates.2. Liaise with the public appointments' office on a regular basis to confirm needs. Action Plan: <ul style="list-style-type: none">1. Proactive communications with government.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: Risk Register and Practice Risks

Recommendation:

THAT the Board receive the portion of the Risk Register about Practice Risks.

Issue:

The College Performance Measurement Framework (CPMF) requires that boards regularly assess effectiveness and address identified opportunities for improvement through ongoing education. Deanna Williams of Dundee Consulting Group was contracted in the spring of 2023, to conduct this third-party assessment and the Board received a report in January 2024.

During the assessment, Deanna found little mention of risks related to actual or potential harm to the public/clients of OTs in Board level discussions or materials. Deanna recommended that the Board consider the addition of practice risks to the Risk Register as a key reason professional regulators exist is to identify and mitigate potential risks of harm to the clients who seek/use the services of their regulators.

The College program leadership team has reviewed the evidence about risk and the practice risks arising in the Registration, Quality Assurance, Practice, and Investigations & Resolutions programs. The Board can be assured that the practice risks added to the Risk Register are being appropriately monitored and managed.

Link to Strategic Plan:

Quality Practice

The College embraces leading regulatory practices to protect the public.

- Takes an evidence-informed, risk-based approach to ensuring occupational therapists are competent, safe, effective, and accountable.
- Engages occupational therapists to advance quality practice and the delivery of safe, effective occupational therapy service.

Why this is in the Public Interest:

Managing risk 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 the Board.

The College takes an evidence-informed, risk-based approach to ensuring Occupational Therapists are mitigating potential risks of harm to the public

BOARD MEETING BRIEFING NOTE

Risk Register and Practice Risks

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Diversity, Equity, and Inclusion Considerations:

The considerations related to Diversity, Equity and Inclusion, are on the Risk Register for review and action planning, and, while important, have not been categorized as high or critical at this time.

A new practice risk: *Client harmed or feels culturally unsafe due to OT practices* has been added to the Risk Register and the residual risk is considered low due to the operational implementation of: Code of Ethics; Practice Standards; Complaint and Report Data; QA Competency Assessment Risk Indicators Data and the work of our various statutory and non-statutory committees including the Equity Perspectives and Indigenous Insights Advisory committees.

Discussion:

Each practice risk identified through review is listed along with the control procedures and action plan developed to mitigate each risk. Currently there are no residual practice risks that are considered high or critical.

Attachment:

- Risk Register – Practice Risks (October 2024)

Practice Risks Register
vOctober 24, 2024

	Outcome/ Residual Risk	Date Risk Added	Accountability	Responsibility	Risk Description	Probability 1-5	Impact 1-5	Overall Risk	Risk Ranking Critical Low, Med, High	Control Procedures	Monitoring Process	Action Required to Manage Residual Risks	Status (Open or Closed)	Data Management Agenda
Practice Risks	Low	2023-2024	Registrar & Program Director	Program Managers	OTs sexually abuse their clients and/or commit sexual misconduct or professional boundary issues	5	5	12	Critical	1. Code of Ethics 2. Standards of Practice 3. Competencies for OT in Canada 4. Education produced with guidance of Patient Relations and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee (ICRC) and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Support and Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Patient Relations Committee and Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education-Staff, committees, Board	OPEN	Standard and Date Reviewed: 2023 <i>Standard for Professional Boundaries and the Prevention of Sexual Abuse</i> Standard for the Prevention and Management of Conflicts of Interest Complaint and Report Data QA Risk Indicators Data Quarterly Report-QA, ICRC and Patient Relations
Practice Risks	Low	2023-2024	Registrar & Program Director	Program Managers	OTs fail to adequately supervise OTAs (REHAB assist) or others	4	3	12	High	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach & Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Patient Relations Committee and Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education-Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT	OPEN	Standard and Date Reviewed: 2023 <i>Standard for the Supervision of Students and Occupational Therapy Assistants</i> Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA
Practice Risks	Moderate	2023-2024	Program Director	Program Managers	Client harmed during the use of "Controlled Act by an OT/ "Controlled Acts" Delegation- Psychotherapy	4	3	12	High	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Patient Relations Committee and Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education-Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT	OPEN	Standard and Date Reviewed: 2023 <i>Standard for Acupuncture</i> Standard for Psychotherapy Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA

Practice Risks Register
vOctober 24, 2024

	Outcome/ Residual Risk	Date Risk Added	Accountability	Responsibility	Risk Description	Probability 1-5	Impact 1-5	Overall Risk	Risk Ranking Critical Low, Med, High	Control Procedures	Monitoring Process	Action Required to Manage Residual Risks	Status (Open or Closed)	Data Management Agenda
Practice Risks	Low	2023-2024	Program Director	Program Managers	Client harmed or feels culturally unsafe due to OT practices	4	5	12	Critical	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. Advice from Advisory Committees on EDI Perspectives and Indigenous Insights 11. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC, and QA 2. Quarterly registrar's report. 3. Patient Relations Committee and Practice Subcommittee Quarterly Report; 4. Practice Support 5. Competency Assessment Process 6. Equity Perspectives and Indigenous Insights Advisory Committee Workplans; COTO EDI and Indigenous Insights Plans	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education- Staff, committees, Board 4. Implementation of Advisory Committees 5. Collaboration with ACOTRO, OSOT and CAOT 6. Race Based Data Collection Project	OPEN	Code of Ethics CEJ Standard and Date Reviewed: 2023 Standard for Assessment and Intervention Standard for Consent Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA; Advisory Committees; Patient Relations
Practice Risks	Low	2023-2024	Program Director	Program Managers	Client harmed due to substandard record keeping practices	4	5	12	Critical	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process 6. Practice Subcommittee Workplan	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education- Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT	OPEN	Standard and Date Reviewed: 2023 Standard for Record Keeping Standard for Consent Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA
Practice Risks	Moderate	2023-2024	Program Director	Program Managers	Client harmed during the use of Artificial Intelligence (AI) for assessment and/or intervention by an OT	4	3	12	High	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process 6. Practice Subcommittee Workplan	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Practice Support/ Education- Staff, committees, Board 4. Development of Program and Practice level guidance with regards to use of AI 5. Collaboration with Universities, Associations, and HPRO	OPEN	Standard and Date Reviewed: 2023 Standard for Assessment and Intervention Standard for Record Keeping Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA

Practice Risks Register
vOctober 24, 2024

	Outcome/ Residual Risk	Date Risk Added	Accountability	Responsibility	Risk Description	Probability 1-5	Impact 1-5	Overall Risk	Risk Ranking Critical Low, Med, High	Control Procedures	Monitoring Process	Action Required to Manage Residual Risks	Status (Open or Closed)	Data Management Agenda
Practice Risks	Moderate	2023-2024	Program Director	Program Managers	Client harmed by Registrant practicing while incapacitated	4	3	12	High	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Patient Relations Committee and Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education- Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT	OPEN	Code of Ethics Standard and Date Reviewed: 2023 Standard for Assessment and Intervention Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA
Practice Risks	Low	2023-2024	Program Director	Program Managers	Client's privacy compromised due to OTs fail to safeguard Private Health Information and/or gain knowledgeable consent	4	3	12	High	1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Patient Relations Committee and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints; 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment	1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Patient Relations Committee and Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process	1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Patient Relations Education- Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT	OPEN	Privacy Guidance Code of Ethics Standard and Date Reviewed: 2023 Standard for Consent Standard for Record Keeping Complaint and Report Data QA Risk Indicators Data Quarterly Report-Practice; ICRC; QA

Practice Risks Register
vOctober 24, 2024

	Outcome/ Residual Risk	Date Risk Added	Accountability	Responsibility	Risk Description	Probability 1-5	Impact 1-5	Overall Risk	Risk Ranking Critical Low, Med, High	Control Procedures	Monitoring Process	Action Required to Manage Residual Risks	Status (Open or Closed)	Data Management Agenda
Practice Risks	Low	2023-2024	Program Director	Program Managers	Risk of harm to public due to new to practice, practice re-entry, or practice isolation	4	3	12	High	<ol style="list-style-type: none"> 1. Code of ethics 2. Standards of Practice 3. Competencies for OT 4. Education produced with guidance of Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Outreach 10. QA Annual Requirements and Competency Assessment 	<ol style="list-style-type: none"> 1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process 6. Practice Subcommittee Workplan 	<ol style="list-style-type: none"> 1. Annual QA Requirements 2. Risk-based selection for Competency Assessment 3. Practice Support/ Education-Staff, committees, Board 4. Development of Program and Practice level guidance with regards to use of AI 5. Collaboration with Universities, Associations, and HPRO 6. Employer Engagement Project 7. Update to Welcome Guide 8. Collaboration with SEAS program 	OPEN	Standard and Date Reviewed: 2023 Standard s Registration Data Complaint and Report Data QA Risk Indicators Data Quarterly Report- Registration, QA, ICRC and Patient Relations
Practice Risks	Low	2023-2024	Program Director	Program Managers	Risk of harm to public due to OT services for Equipment/Safety and training others on use of equipment	4	3	12	High	<ol style="list-style-type: none"> 1. Code of Ethics 2. Standards of Practice 3. Competencies for OT in Canada 4. Education produced with guidance of Patient Relations and Practice Subcommittee 5. Information on website 6. The Investigations, Complaints and Resolutions Committee (ICRC) and Panels deliberations and decisions by ICRC and QA 7. Timely investigation and responses to complaints 8. Evidence based Practice Guidance and Education 9. Practice Support and Outreach 10. QA Annual Requirements and Competency Assessment 	<ol style="list-style-type: none"> 1. Case review and decisions by panels of ICRC and QA 2. Quarterly registrar's report 3. Practice Subcommittee Quarterly Report 4. Practice Support 5. Competency Assessment Process 6. Practice Subcommittee Workplan 	<ol style="list-style-type: none"> 1. Annual QA Requirements 2. Risk-based selection for Competency Assessment. 3. Patient Relations Education-Staff, committees, Board 4. Collaboration with ACOTRO, OSOT and CAOT 	OPEN	Standard and Date Reviewed: 2023 Standard for Assessment and Intervention Registration Data Complaint and Report Data QA Risk Indicators Data Quarterly Report- Registration, QA, ICRC and Patient Relations

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Finance and Audit Committee
Subject: Fiscal Year 2024/2025 Q1 Financial Summary Report

Recommendation:

THAT the Board receive the FY24/25 Q1 Financial Report, as presented.

Issue:

To review the year-to-date financial results of the College for fiscal year 2024/2025 and advise the Board of any issues.

Link to Strategic Plan:

This aligns under Performance and Accountability

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

4.1 Ensures College governance is proactive, effective, competency-based, and accountable.

Why this is in the Public Interest:

The College has a duty to ensure that it has the financial resources to meet its public protection mandate and to use those resources responsibly.

Diversity, Equity, and Inclusion Considerations:

When preparing this report, all elements of diversity, equity and inclusion were considered.

Background:

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 August 31, 2024
 - Statement of Operations for the period June 1, 2024, to August 31, 2024
 - Statement of Reserve Funds as at August 31, 2024

Discussion:

Highlights of Statement of Operations:

(Please refer to the attached Statement of Operations for the period as at August 31, 2024).

BOARD MEETING BRIEFING NOTE

Fiscal Year 2024/2025 Q1 Financial Summary Report

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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 matured and reinvested, recognizing the interest reinvested in the balance.
- The decrease in property and equipment year-over-year is due to depreciation from the leasehold improvements, furniture, and the server.

Items to note with respect to liabilities for the period include:

- The deferred registration fees recorded in the Statement of Financial Position, as at August 31, 2024, represent the portion of the annual renewal fees collected for fiscal year 2024/2025. These funds will be moved out of the Statement of Financial Position quarterly and recognized in the Statement of Operations as Registration fees. Annual renewal funds collected on or after June 1, 2024, are automatically recorded directly under Registration fees on the Statement of Operations for the current fiscal year.

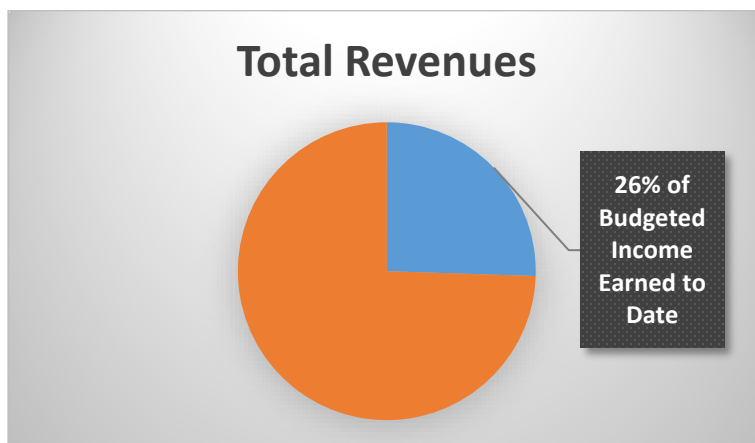
The Net Assets section on the Statement of Financial Position reflects the following:

- The decrease in Invested in Fixed Assets is due to the depreciation.
- The excess of revenues over expenses for the period is due primarily to lower expenditure, due to delayed timing, in various areas.

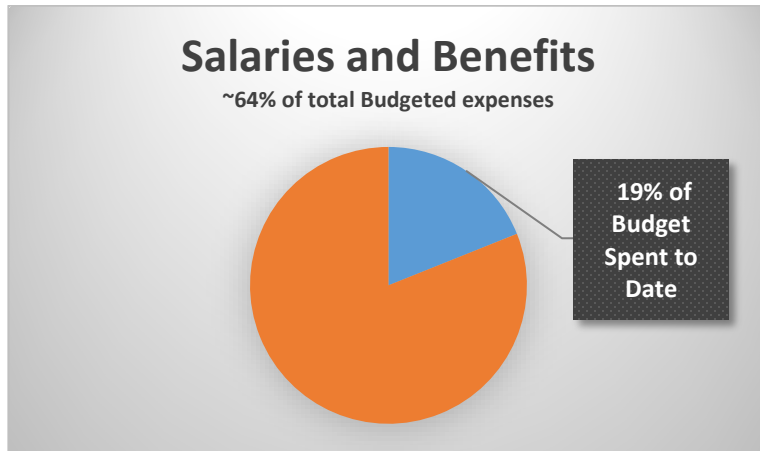
Highlights of Statement of Operations:

(Please refer to the attached Statement of Operations for the period of June 1, 2024, to August 31, 2024).

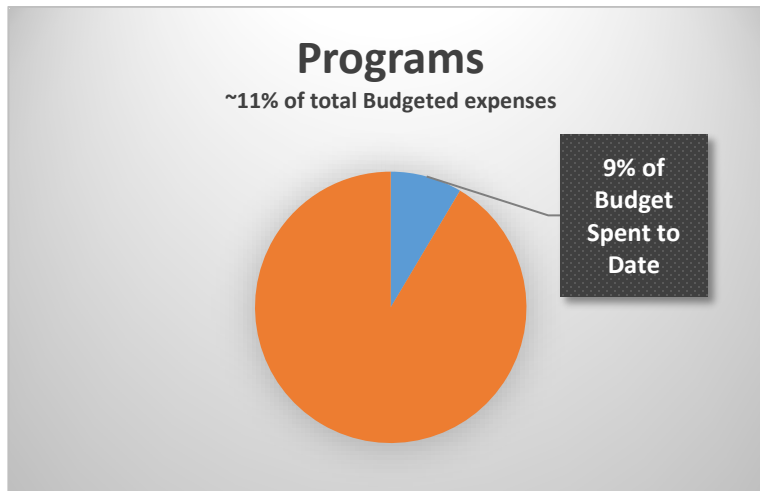
The excess of revenues over expenses for the period June 1, 2024, to August 31, 2024, is \$523,912. The College is in a surplus position and the below charts provide some additional detail for each category.



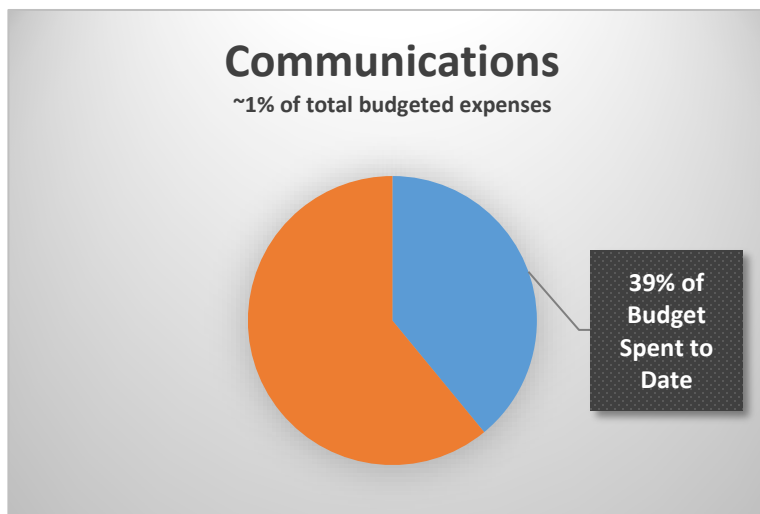
- Status: Favourable to budget
- Revenue is composed primarily of returning and new registrant fees, and application fees.



- Status: Favourable to budget
- Salaries and benefits are underbudget, this is primarily due to the reversal of the vacation accrual booked last fiscal year end. We are expecting salaries to be in line with the budget by the end of the year.



- Status: Favourable to budget
- Program expenses are underbudget primarily due to timing of College activities and the reversal of an I&R year-end accrual. When accrual reversal is excluded, we have incurred \$51K in expenses.

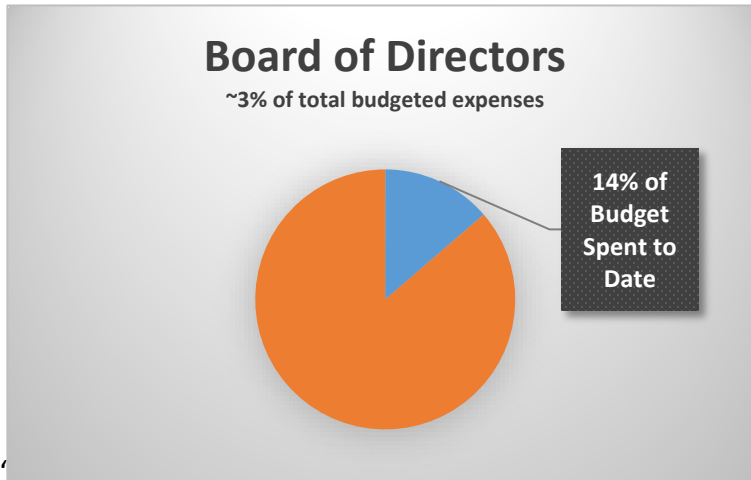


- Status: Unfavourable to budget
- Communications costs are overbudget due to the website update project with vendor Twirling Umbrellas that was not initially budgeted for.

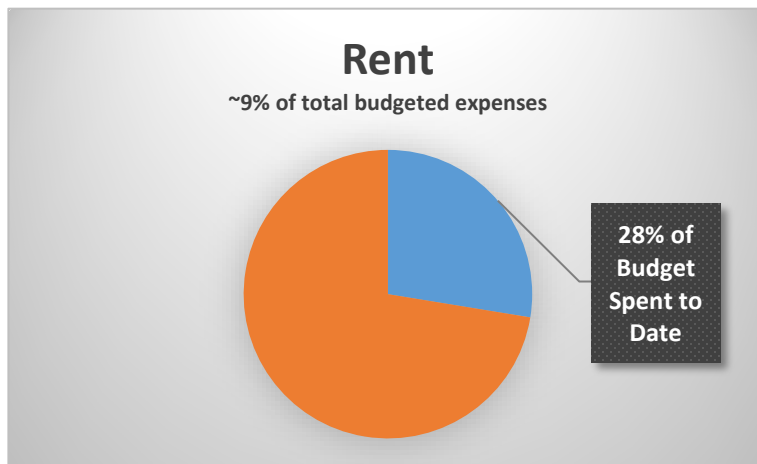
BOARD MEETING BRIEFING NOTE

Fiscal Year 2024/2025 Q1 Financial Summary Report

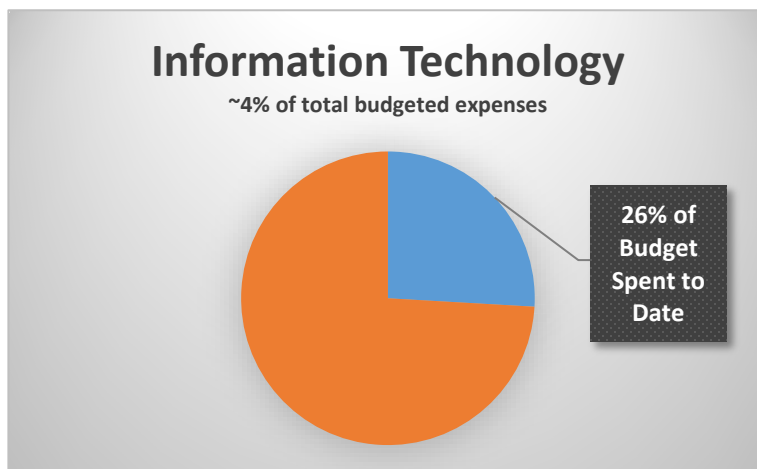
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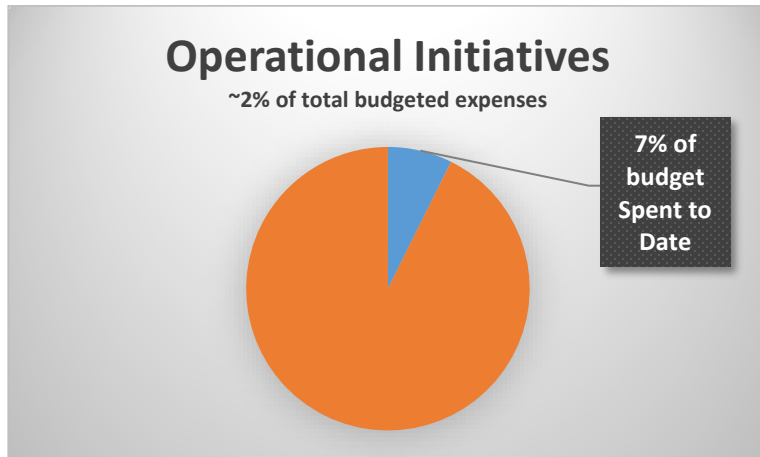
- Status: Favourable to budget
- Board of Director expenses are under budget. Anticipate more in-person meetings in the next quarter.



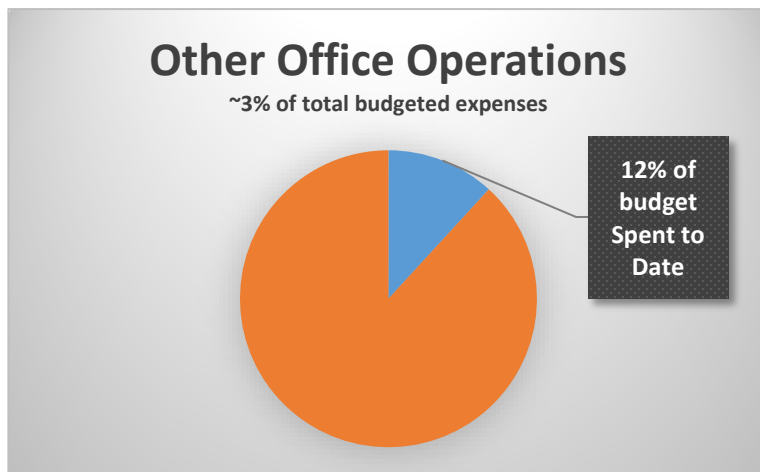
- Status: Slightly Overbudget
- Included here are rent and insurance premiums and leases for large equipment.



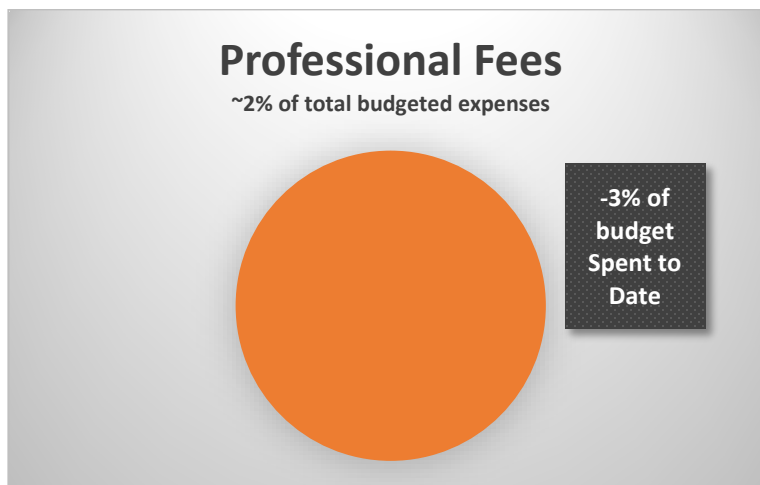
- Status: On Target



- Status: Favourable to budget
- Operational initiatives are under budget at 7%. This is due to the timing of activities and invoices. We have also decided to delay some projects to reduce our deficit for the year.



- Status: Favourable to budget
- Other Office Operations are under budget due to delayed timing of invoices and costs.

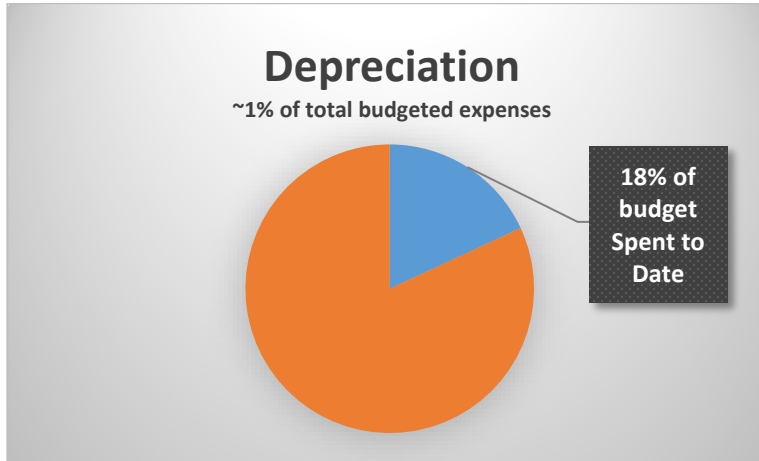


- Status: Favourable to budget
- Professional Fees are under budget; we anticipate this to become in line with the budget as the year progresses.

BOARD MEETING BRIEFING NOTE

Fiscal Year 2024/2025 Q1 Financial Summary Report

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- Status: Favourable to budget
- Anticipate the addition of new fixed assets to be purchased throughout the year which will then align depreciation to budget.

Highlights of Statement of Reserves:

(Please refer to the attached Statement of Reserves as at August 31, 2024)

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

Through to the end of August, the following expenses have been incurred:

- \$11,553 has been allocated to the Invested in Fixed Assets Fund amount and is reflective of the accumulated depreciation.

BOARD MEETING BRIEFING NOTE

Fiscal Year 2024/2025 Q1 Financial Summary Report

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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	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)	Monthly Upcoming Filing Due Dates: September 30, 2024 October 31, 2024 November 30, 2024	Up to date
Filing of T4, T4A returns	Annually based on calendar year. Due last day of February.	Up to date
Filing of Corporate Income Tax Return (T2)	Annually based on fiscal year. Due November 30, 2024.	Up to date
Filing of Non-Profit (NPO) Information Return (T1044)	Annually based on fiscal year. Due November 30, 2024.	Up to date

College of Occupational Therapists of Ontario
STATEMENT OF FINANCIAL POSITION
As at August 31, 2024

	31-Aug-24	31-Aug-23
ASSETS		
Current assets		
Cash	3,630,123	3,699,084
Accounts receivable and prepaid expenses	83,688	89,598
Total current assets	3,713,811	3,788,682
Investments	3,698,575	3,565,718
Property and equipment, net of accumulated amortization	228,943	216,895
TOTAL ASSETS	7,641,329	7,571,295
LIABILITIES		
Current Liabilities		
Accounts payable and accrued liabilities	203,517	127,441
HST payable	-	-
Deferred registration fees	3,484,455	3,322,449
Total current liabilities	3,687,972	3,449,890
Total liabilities	3,687,972	3,449,890
NET ASSETS		
Reserve funds	1,325,000	1,366,120
Invested in fixed assets	228,944	216,894
Unrestricted	1,875,501	2,208,346
Adjusted excess of revenues over expenses for the period	523,912	330,045
Total net assets	3,953,357	4,121,405
TOTAL LIABILITIES AND NET ASSETS	7,641,329	7,571,295

BOARD MEETING BRIEFING NOTE

Fiscal Year 2024/2025 Q1 Financial Summary Report

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**College of Occupational Therapists of Ontario
STATEMENT OF OPERATIONS
June 2024 to August 2024**

	3 Months Actuals ended August 2024 \$	12-Month Budget FY24/25 \$	Percentage of Spend to Budget %
REVENUES			
Registration fees	1,278,302	4,918,860	26%
Application fees	31,420	108,213	29%
Interest & other income	39,163	174,497	22%
TOTAL REVENUES	1,348,885	5,201,570	26%
EXPENSES			
Salaries and benefits	663,136	3,503,119	19%
Programs	(103,357)	596,224	-17%
Communications	24,549	62,878	39%
Board of Directors	22,680	165,775	14%
Rent	131,248	475,924	28%
Information technology	53,118	204,965	26%
Other office operations	18,161	153,678	12%
Operational initiatives	8,160	111,000	7%
Professional fees	(4,275)	143,813	-3%
Depreciation	11,553	63,847	18%
TOTAL EXPENSES	824,973	5,481,223	15%
EXCESS OF REVENUES OVER EXPENSES FOR THE PERIOD	523,912	(279,653)	

STATEMENT OF RESERVE FUNDS			
	Opening Balance June 1, 2024 \$	Spent to Date/Change \$	Closing Balance Aug 31, 2024 \$
Hearings and independent medical exam fund	\$ 400,000	-	400,000
Sexual abuse therapy fund	\$ 25,000	-	25,000
Premises fund	\$ 800,000	-	800,000
IT Technology Fund	\$ 100,000		100,000
Invested in fixed assets	\$ 240,497	\$ (11,553)	\$ 228,944
Unrestricted	\$ 1,863,948	\$ 11,553	1,875,501
Excess of revenues over expenses for the period	\$ -	523,912	523,912
TOTAL RESERVES	3,429,445	523,912	3,953,357

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: College Involvement in New Discipline Tribunal Process

Recommendation:

THAT the Board amend the bylaws to add an adjudicator to the composition of the Discipline and Fitness to Practice committees and other changes needed to enact this.

THAT the Board approve changes to the terms of reference for the Discipline and Fitness to Practice committees to add an adjudicator to the committee composition.

THAT the Board recommend the College continue to review the process of participating in the Health Professions Discipline Pilot Tribunal (HPDPT) and to bring this forward to the Board for approval at a later date.

THAT the Board appoint Mr. David Wright to the Discipline and Fitness to Practice committees for a three-year term, effective immediately.

Issue:

The College would like the Board to consider a different process for our Discipline Committee which would involve appointing an experienced adjudicator to chair specific discipline cases of the committee through a new process developed by the College of Physicians and Surgeons and adopted by other regulators.

Link to Strategic Plan:

Quality Practice : The College embraces leading regulatory practices to protect the public.

Performance and Accountability: The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

In addition, s. 3 of the Health Professions Procedural Code include promoting and enhancing relations between and inter-professional collaboration with other health profession colleges.

Why this is in the Public Interest:

Discipline hearings and the Decision and Reasons from the Discipline Committee are open to the public. The discipline process is also one of the paramount and most visible ways in which the colleges protect the public – panels of the Discipline Committees adjudicate on the most serious types of conduct of regulated health professions and revoke and/or suspend registrant licenses where the evidence supports

BOARD MEETING BRIEFING NOTE

College involvement in new Discipline Tribunal Process

Page 2 of 6

the conduct occurred. Panels with greater expertise of the complex legal issues that arise will build public confidence in this very important function. The Pilot Report provides examples of positive feedback from those that have been involved with the HPDPT and the Ontario physicians and surgeons Discipline Tribunal (OPSDT).

Appointing an adjudicator to the Discipline Committee and Fitness to Practice Committee will allow the College to gain a better sense of the role the HPDPT will have in assisting the College to act in the public interest with respect to discipline matters.

Diversity, Equity, and Inclusion Considerations:

With respect to the specific issue of appointing an adjudicator, there are no significant considerations here. However, the HPDPT also operates with DEI at the forefront. One of the ways this is most prominent is in the recruitment of a diverse complement of adjudicators. In addition, having policies, procedures, and the final decisions written in more accessible plain language.

Background:

In 2021, the College of Physicians of Surgeons (CPSO) spearheaded a new approach to the prosecution of their discipline cases and established the Ontario Physicians and Surgeons Discipline Tribunal (OPSDT). The primary and distinctive feature of this tribunal was appointing an independent full-time chair to lead the OPSDT and the Tribunal Office, who was not an elected or appointed member of the CPSO's Discipline Committee or board. The full-time chair and other chairs of individual panels are experienced adjudicators recruited by the OPSDT. David Wright is the current full-time Chair of the OPSDT and is also leading the HPDTP. Please see p.11 of the Pilot Report for more information about Mr. Wright's background.

This change reflects an important move towards greater independence from the College and increased competency on the panels who are adjudicating increasingly legally complex cases. This independence and confidence are exemplified in the change of name from the CPSO Discipline Committee to that of the OPSDT. The substantive changes the OPSDT has undertaken include:

- Developing and implementing case management and scheduling functions;
- Modernizing the Rules of Procedure;
- Recruiting experienced adjudicators outside the CPSO's purview;
- Launching a separate website from CPSO's with up-to-date information on all cases, along with publication of its own policies and procedures;
- Implementing a more accessible reason-writing style and more efficient timelines for the issuing of decisions;
- Developing robust training for members of the committees and staff.

While these changes are aimed at creating more independence and, by extension, building confidence in the self-regulation model, discipline cases are still heard and decided by a panel consisting of at least 2 public board members of the CPSO and at least 1 to 2 members of the profession (depending on the panel size being 3 or 5).

BOARD MEETING BRIEFING NOTE

The addition of an experienced adjudicator not only inserts a non-board and non-professional member into the process, it also brings the wealth of adjudication experience; something that many members of College Discipline Committees do not have. While adjudicators do not necessarily need to be lawyers, they often hold this designation and have specific experience working with other tribunals. David Wright was previously the Chair of the Law Society's Discipline Tribunal among other experience.

In 2023, the OPSDT opened the door for more colleges to institute the same model, thereby creating the Health Professions Discipline Tribunals Pilot (HPDTP). Three colleges joined – Colleges of Audiologists and Speech-Language Pathologists (CASLPO), Massage Therapists (CMTO) and Registered Psychotherapists (CRPO).

There are numerous advantages to the HPDTP model and the door remains open for other colleges to join. The primary advantage for a college like COTO, with a typically low volume of discipline cases, is the addition of experienced adjudicators serving as chairs of panels as well as presiding chairs at pre-hearing conferences/case conferences. COTO, and many other colleges already participating in the Pilot, believe the HPDTP is the future for all health regulatory colleges. There have been many calls in the past for a more independent and skills-based discipline tribunal (or committee), including from Justice Goudge in the Goudge Report (see p. 11 of the Pilot Report) and The Hon. Marilou McPhedran in her report on sexual abuse processes. As noted in the Pilot Report, page 8:

Despite their name, Discipline Committees are administrative tribunals, a part of the justice system that decides far more disputes than the courts. They are required to hold quasi-judicial hearings in accordance with the principles of procedural fairness, write decisions and process cases effectively and efficiently.

It is vital that administrative tribunals exercise their tremendous power in the most judicious way and keep up-to-date with best practices in administrative law practice.

Advantages of Joining the Pilot

- Experienced adjudicators who serve as chairs at case conferences with the necessary training and skills help the parties work towards a settlement at more efficient pace; some colleges have reported that cases that were initially proceeding on a contested basis and were transferred to the Pilot, were then resolved on an uncontested basis through the use of these case conferences (this can result in significant cost savings).
- Experienced adjudicators who serve as chairs of the hearing panels help to guide the other panel members through the legal issues, eliminating the need for colleges to retain Independent Legal Counsel (ILC). While there is a cost for the adjudicators, the cost is typically less than that of ILC. It has been noted, by colleges participating in the Pilot, that often discipline panels may not even notice a legal issue and are prompted by either prosecution or defense counsel to seek advice from ILC. This has the effect of, at best, creating an awkwardness in the roles of the parties, and, at worst, eroding confidence in the process and the resulting decisions of the panels.
- Removing the burden of case processing, scheduling and other administrative duties from College staff who also do not have extensive or dedicated experience due to our low volumes. Supporting the Discipline and Fitness to Practice committees and the hearings process has

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always been an ad hoc additional responsibility when hearings occur and can negatively affect the efficiency of the other processes COTO's Investigations & Resolutions (I&R) staff are expected to keep up with daily.

- While the discipline administrative duties have always been absorbed by the I&R department out of necessity, best practice has always assumed that the function of supporting the Discipline Committee, and the hearings should be separate from investigations case processing. It is important to remember that once a case is referred to the Discipline Committee, the College is the prosecutor and the manager of I&R, and the Registrar instruct prosecution counsel. Staff supporting the Discipline Committee, and the hearings process should ideally be removed to eliminate any apprehension of bias.
- The timeline for the Discipline Committee's deliberations and the issuing of the Decision and Reasons are much shorter and the decisions are comprehensive, defensible, issue-based and use plain language. The quality of decisions and their accessibility to the public is a significant part in building and maintaining public confidence. Decisions and Reasons are complex documents to write, that face scrutiny from many places, including the courts; having experienced adjudicators and staff drafting and reviewing these important documents, again, takes the pressure off less experienced members of a hearing panel.
- French language availability – at least 3 adjudicators are fluent in French either as their first or second language.

Risks of joining the Pilot:

- The model itself does not pose any significant risks and some of the preliminary legal questions appear to have been answered (see p. 15 of the Pilot Report). Some colleges have perhaps been hesitant to join over concerns that they will lose some control of the discipline processes and will have to adopt rules and policies of the HPDTP. For COTO, this is not a significant concern – most changes will be technical and given the lack of consistent volume of cases, it cannot be said that there is a sense of having any existing processes entrenched.
- The primary risk is financial. However, all the participating colleges have reported that participation in the HPDPT has been mostly cost neutral and results more in moving costs around than wholly reducing or increasing them. Currently, the proposal in the Pilot Report for 2025 is a monthly premium of \$750 for colleges with an average of two hearings or less per year over the past five years, and \$350/hr for work conducted by Tribunal staff and the adjudicators. For colleges with one hearing or less per year over the past five years, the monthly premium is listed at \$150 with the same hourly rate (p. 42 of the Pilot Report). It is somewhat unclear where the College will fall given our current volume. From 2018 to 2023, COTO had four discipline cases. Taking the widest view, COTO has been in operation for about 30 years (since 1994) and has had a total of 28 discipline cases. This would certainly bring COTO into the \$150/month premium and not create any undue financial burden even if it was levied in months where discipline is quiet. However, currently we have 2 cases likely to have hearings in this calendar year, and based on our current investigations, we may have as many as 3 referrals to discipline next calendar year. We've also recently had our first ever referral to Fitness to Practise, although it's in the very early stages and we're hoping it will resolve without the need for a full hearing. While \$750/month is feasible during an active period of discipline referrals, it is not sustainable in the

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long term if COTO returns to its typical levels. We have engaged in productive and cooperative conversations with David Wright who has offered assurances that as the HPDPT evolves and more colleges join, the cost structure will continually be assessed. It is important to note that the HPDPT, like all colleges, is non-profit based. Mr. Wright has also assured us that he will review COTO's costs specifically to ensure that we do not pay more than needed and that a "blip" in our volume of cases would not result in a larger levy over many years.

- Below are examples of where some costs may increase, but others may decrease:
 - The Pilot Tribunal does involve a more active use of case conferences and may hold several before setting a hearing date. This will involve the fee for the adjudicator at \$300-\$350/hr. Currently, COTO typically holds one pre-hearing conference at 2-hours with ILC serving as Chair. Our current ILCs charge \$450/hr. This, however, may be an example of moving costs around, as the College may spend more on several case conferences (as opposed to one), but will spend less on hearing days if the cases conferences can resolve matters. Contested hearings, on the other hand, which can be several days or weeks, involve expenditures not only the College's prosecution counsel, but on ILC, Discipline Committee member per diems, and court reporters.
 - If COTO elects to have the HPDPT also handle the administrative case processing functions, the Pilot Report proposal outlines a \$350/hr. charge versus \$300/hr. without it. This would essentially equate to outsourcing this function rather than handling it in-house with existing staff. While this could be considered an additional expense for COTO at the present time I&R staff are operating on a 2.4 staff complement, whereas historically, it has been three to four staff. I&R workflow ebbs and flows, and the administrative work involved in processing hearings also comes in waves. Outsourcing this function will assist I&R in managing their workflows and focus attention on areas that require more consistent and daily attention; this should also allow the I&R staff complement to be no more than three at any one time rather than four. The cost of an additional staff per year is likely less than outsourcing at \$50 extra per hour, this administrative function.

The College has not had a full hearing since 2020; that case was a contested, difficult matter, and required a lot of policy development as the College had to pivot to virtual hearings in the wake of the Covid-19 pandemic. As a result, we do not have many recent, or consistent examples in which to determine current average expenditures for discipline cases. Therefore, the matter of costs will be monitored closely if COTO elects to join the HPDPT to ensure it remains cost neutral or, potentially, cost-saving. Again, although this decision is not before this committee or the Board yet, it is helpful to note that joining the HPDPT will begin with a 1-year contract.

Discussion:

Given the above risks, but numerous advantages, in the immediate short-term, we are proposing to have David Wright appointed as an adjudicator to the existing Discipline and Fitness to Practise committees in order that he can chair one of the current cases the College is processing, and possibly chair a Fitness to Practise hearing, if needed. This will allow COTO to "pilot the pilot" in the short term while allowing the Executive Committee and the Board to review a more robust proposal for joining the HPDPT in the next

BOARD MEETING BRIEFING NOTE

College involvement in new Discipline Tribunal Process

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calendar year. Joining the HPDPT will involve some bylaw changes, changes to the Rules of Procedure for the Discipline Committee and other administrative and governance tasks. Appointing Mr. Wright at the present time will provide COTO the opportunity to observe how the adjudicator Chair will assist in easing the burden on other panel members and allow us to begin to measure the costs. If the Board agrees, they can specifically appoint Mr. Wright to these committees now to facilitate our involvement.

While the specific issue to be considered today is the arrangement for the appointment of an adjudicator to COTO's current Discipline and Fitness to Practise committees, this briefing note includes a background on the development of a more independent discipline tribunal for health regulatory colleges. COTO's intention is to formally bring the issue of joining the Health Professions Discipline Tribunals Pilot (HPDTP) to the Board in the new year. The appointment of the adjudicator is an interim step which could be considered "piloting the Pilot". Therefore, to help bring context to the immediate decision before you, we are taking the opportunity to bring forward this information. Included with this briefing note is the Pilot Phase Report and Proposal (the Pilot Report) which provides valuable information, reporting, and feedback on the past four years and a proposal for moving into the next phase of HPDTP.

Implications:

If the Board agrees, there are several processes that need to be put in place. First, it would be advisable to add an adjudicator to the committee composition of the Discipline and Fitness to Practise committees through revision of their terms of reference and amending the bylaws. This way as someone is needed, they can be put into place. We hope to use David Wright, the leader of the tribunal for our pilot, but this process gives us the flexibility to use any trained adjudicator that is available as times goes on. The Board or the Executive Committee needs to appoint the specific individuals to these committees.

Doing this process now will facilitate the involvement of an adjudicator in a current discipline case and allow the College to test the processes and assess the costs. In the meantime, the College will explore the processes necessary to move forward with implementation of the full tribunal approach at COTO to present to the Board at their meeting in January.

Attachments:

1. HPDT Pilot Report and Proposal
2. Draft Bylaws
3. Draft Terms of Reference – Discipline Committee
4. Draft Terms of Reference – Fitness to Practise Committee



Pilot Phase Report and Proposal

HPDT
Health Professions
Discipline Tribunals



TDPS
Tribunaux de discipline
des professions de la santé



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Glossary

The terminology used at different Health Colleges and at different times varies. For readability, we have used consistent terminology as follows.

Board	“Council” under the Code
CASLPO	College of Audiologists and Speech-Language Pathologists of Ontario
HPDT or OPSDT Chair	Chair of the Ontario Physicians and Surgeons Discipline Tribunal and Chair or Co-Chair of the Pilot Tribunals, currently David Wright
CMC	Case Management Conference
CMTO	College of Massage Therapists of Ontario
Code	Health Professions Procedural Code, Schedule 2 to the RHPA
CPSO	College of Physicians and Surgeons of Ontario
CRPO	College of Registered Psychotherapists of Ontario
Discipline Tribunal	A discipline committee or tribunal under the Code
Experienced Adjudicator	Individuals with at least five years of experience as an adjudicator, recruited through a competitive process and appointed to the OPSDT and Pilot Tribunals
HPDT	Health Professions Discipline Tribunals, currently the OPSDT, ORPDT, and the Discipline Committees of CMTO and CASLPO
OPSDT	Ontario Physicians and Surgeons Discipline Tribunal, which is the Discipline Committee of the CPSO
ORPDT	Ontario Registered Psychotherapists Discipline Tribunal, which is the Discipline Committee of the CRPO
Parties	The parties to a discipline proceedings are the College (the prosecutor) and the registrant (the defence)
Pilot Colleges	CASLPO, CMTO and CRPO
Pilot Tribunals	The Discipline Committees of CMTO and CASLPO and the ORPDT
Registrant	A “member” under the Code
RHPA	<i>Regulated Health Professions Act</i>
Tribunal Office	The department within CPSO that supports the OPSDT and HPDT
Tribunal Office Staff	Staff employed by CPSO who work on administration and case processing of HPDT matters, including the HPDT Chair and Tribunal Counsel.



Introduction

The OPSDT



Between 2021 and 2023, the College of Physicians and Surgeons of Ontario (CPSO) revamped its process for hearing and deciding allegations of professional misconduct and incompetence

referred for discipline hearings. The changes, reflecting best practices in administrative justice, have led to increased independence, higher participant and public confidence, dramatically shorter timelines and significant cost savings. Physician and public members hearing discipline cases have provided extremely positive feedback.

The significant components of the changes include:

- renaming the CPSO Discipline Committee the Ontario Physicians and Surgeons Discipline Tribunal (OPSDT) to signal independence and promote understanding of its work;
- appointing an independent full-time Chair to lead the OPSDT and the Tribunal Office, along with a part-time physician Vice-Chair;
- recruiting individuals with significant experience as adjudicators in other contexts to chair hearing panels, eliminating the need for independent legal counsel;
- instituting intensive case management in the pre-hearing phase, with case management conferences (CMCs) chaired by an experienced adjudicator;
- implementing a more streamlined scheduling process;
- modernizing the OPSDT's Rules of Procedure and Practice Directions to make them more plain language, flexible and values based;
- developing a separate website for the OPSDT, including detailed, plain-language guides to various OPSDT processes and other easily accessible and user-friendly resources;
- adopting a more contemporary, accessible reason-writing style and implementing a comprehensive reasons preparation and review policy with tightened timelines for completion;
- establishing a practice advisory group to gather feedback from lawyers who represent both the College and registrants;
- designing and implementing new, more robust training when new members are appointed and continuing education for all OPSDT members;
- emphasizing equity, diversity and inclusion in all we do.



These changes produced notable successes, including:

Shortened timelines across all stages of the process, including:



- releasing all reasons within our 84-day standard, with most completed sooner
- developing a 2024 key performance indicator of one year from referral to final decision, 80 percent of the time

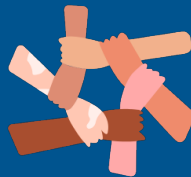


Feedback from professional and public OPSDT members that hearing management by experienced adjudicator chairs allows them to better focus on the issues the panel must decide



Significant cost savings

A more diverse discipline tribunal membership



Positive feedback from all participants in the process and favorable comments from the courts



Ability to schedule uncontested hearings within weeks of parties' agreement

Greater transparency





The HPDT Pilot



In 2023, the OPSDT embarked on a pilot project together with the Colleges of Audiologists and Speech-Language Pathologists (CASLPO), Massage Therapists (CMTO) and Registered Psychotherapists (CRPO) – the Health Professions Discipline Tribunals Pilot (HPDTP). The Pilot Colleges adopted core aspects of the model as implemented at the OPSDT. The Pilot Colleges appointed the experienced adjudicators that were initially recruited by the OPSDT to their Discipline Committees, and the HPDT Chair as the Chair or Co-Chair of their Discipline Committees. CPSO billed the Pilot Colleges for the work done on a non-profit basis.

The Pilot began in March 2023 at CMTO, April 2023 at CRPO and May 2023 at CASLPO. Initial agreements were for a one-year period. After the first year, the Pilot was extended until the end of December 2024 at all three Colleges.

There have been several differences between Pilot Colleges in implementation:

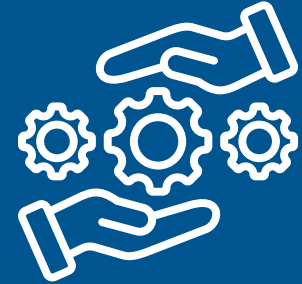
- At CMTO, only cases with allegations of sexual abuse were part of the Pilot stream; other cases continued under the existing system.
- At CASLPO, the Tribunal Office has handled case processing from the beginning of the Pilot. At CRPO, the Tribunal Office took over case processing in the spring of 2024. CMTO continues to do all its own case processing.
- CRPO, CASLPO and OPSDT harmonized their rules, forms, practice directions, guides, administrative processes and templates in the spring of 2024. CMTO continues to be distinct in these ways.



This Report

This report on the Pilot Phase is divided into three parts. The first provides the background to the Pilot and reports on what we did. The second presents participant feedback and some quantitative measures of our work. The third outlines the form of the proposed permanent organization, which is open to both existing participants and other Ontario Health Colleges to join in 2025.

We sought feedback from multiple individuals, including members of the Pilot Tribunals and OPSDT, Pilot College leadership, prosecution and defence counsel and staff supporting the Pilot Tribunals. We have also consulted with senior leadership of other Health Colleges not currently part of the Pilot. Unless attributed to others, the analysis in this report reflects the views and proposals of the Tribunal Office. Proposals on human resources, information technology and finances are on behalf of both the Tribunal Office and CPSO as the organization responsible for resources and contractual arrangements.



PART 1

The model and the pilot

The model and the pilot



BACKGROUND

Changing Expectations and New Challenges

Ontario's Health Professions Procedural Code¹ sets out regulatory processes that apply to all 26 of Ontario's Health Colleges, including establishing various committees. The Discipline and Fitness to Practise Committees are unique within the College structure, in that they are required to hold formal, quasi-judicial hearings to decide allegations referred to them by the Inquiries, Complaints and Reports Committee.

Despite their name, Discipline Committees are administrative tribunals, a part of the justice system that decides far more disputes than the courts. They are required to hold quasi-judicial hearings in accordance with the principles of procedural fairness, write decisions and process cases effectively and efficiently. These are just some of the types of claims that tribunals address: rental housing disputes (Landlord and Tenant Board); entitlement to automobile insurance benefits (Licence Appeal Tribunal); allegations of discrimination in employment or services (Human Rights Tribunal); refugee claims (Immigration and Refugee Board), involuntary detention in psychiatric facilities (Consent and Capacity Board); and entitlement to Employment Insurance Benefits (Social Security Tribunal).

Like other parts of the administrative justice system, professional discipline tribunals are facing several challenges that have become more pronounced in recent years. One is scrutiny from the courts. Discipline decisions can be appealed by either party to the Divisional Court. Since the Supreme Court of Canada's 2019 decision in *Vavilov*,² discipline decisions no longer receive deference from the courts on questions of law; they must be correct. There is also greater scrutiny of tribunals' written reasons.

The court said in *Vavilov* that tribunals must adopt a "culture of justification" and demonstrate through reasons that their exercise of public power can be justified.³

The legal issues in discipline cases are becoming increasingly complex. Supreme Court decisions have clarified that parties may raise issues under the *Canadian Charter of Rights and Freedoms*⁴ and the *Ontario Human Rights Code*⁵ before tribunals. Recent discipline cases have involved decisions on *Charter* claims of freedom of expression, unreasonable search and seizure and patient privacy.

There is also a marked increase, in both tribunals and courts, in the number of self-represented litigants. Tribunals have a duty to provide appropriate support and information to self-represented litigants in published materials, communications with tribunal staff and case management/pre-hearing conferences. Some litigants' and counsel's approach to litigation can lead to hearing management challenges.

Discipline Committees are administrative tribunals, a part of the justice system that decides far more disputes than the courts.

The legal issues in discipline cases are becoming increasingly complex.

¹ Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18.

² *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

³ Para. 14.

⁴ *Nova Scotia (Workers' Compensation Board) v. Martin; Nova Scotia (Workers' Compensation Board) v. Laseur*, 2003 SCC 54.

⁵ *Tranchemontagne v. Ontario (Director, Disability Support Program)*, 2006 SCC 14.



Finally, there are increased legal and societal expectations of transparency and accessibility. Best practice is now to write decisions using a more plain-language, non-formulaic, less legalistic approach so they are more understandable to the parties and the public. Recent court decisions have also found that the “open courts principle” requires that documents filed in tribunal proceedings be available to the public in a timely way, with limited exceptions. The use of on-line hearings that began with the pandemic and has continued since then has allowed the public, complainants, other registrants and the media to view hearings without travelling to downtown Toronto and sitting in a hearing room all day.

Tribunal Best Practices

The following are among the best practices in contemporary tribunal design⁶:

- merit-based appointment and reappointment processes, based on recommendations from the tribunal leadership;⁷
- expert leadership that sets direction through policy, process and decision writing, promoting consistency while respecting panels’ independence;
- tribunal independence, including fixed terms for adjudicators, removal of adjudicators during terms only for cause and separation from the prosecution in discipline tribunals;⁸
- a robust education program for adjudicators, both at the time of appointment and on an ongoing basis;
- plain language, values-based, flexible rules of procedure that allow procedures to adapt to the needs of a particular case;
- plain-language guides and practice directions to assist parties, witnesses and the public;
- issues-based, plain language reasons;⁹
- “decision review and release” policies to ensure high quality and timeliness;
- supports for self-represented litigants;¹⁰
- establishment of committees or roundtables for feedback from those who appear before the Tribunal;
- the use of case management, alternative dispute resolution and active adjudication to promote settlement and streamline hearings;¹¹
- attention to trauma-informed approaches to adjudication.

⁶ For examples of tribunal policies in these and other areas see the Council of Canadian Administrative Tribunals Tribunal Policies Repository: <https://www.ccat-ctac.org/tribunal-policies-repository/>

⁷ See the *Adjudicative Tribunals Accountability, Governance and Appointments Act*, S.O. 2009, c. 33, Sched. 5 (ATAGAA), which does not apply to professional discipline tribunals but is based on best practice.

⁸ See 2747-3174 *Québec Inc. v. Québec (Régie des permis d'alcool)*, [1996] 3 SCR 919.

⁹ See Ed Berry, *Writing Reasons: A Handbook for Judges*, 5th Edition, 2020.

¹⁰ See Canadian Judicial Council, *Statement of Principles on Self-represented Litigants and Accused Persons*, September 2006: <https://cjc-ccm.ca/sites/default/files/documents/2020/Final-Statement-of-Principles-SRL.pdf>; *Pintea v. Johns*, 2017 SCC 23; Michelle Flaherty and Morgan Teeple Hopkins, “Active Adjudication and Self-Represented Litigants: the Duties of Adjudicators” (2022) 35 *Canadian Journal of Administrative Law & Practice* 177.

¹¹ See Michelle Flaherty, “Best Practices in Active Adjudication” (2015) 28 *Canadian Journal of Administrative Law and Practice* 291.



Expertise in Adjudication and Tribunal Administration

Greater professionalization of administrative tribunals has led more people to build careers in administrative justice, resulting in a significant cadre of professionals with extensive experience in the area. Adjudicators often serve on more than one tribunal at the same time or in succession, working part-time in multiple roles and/or applying their experience in different contexts.

With regards to tribunal administration, over the last 15 years, governments have developed umbrella organizations for tribunals, in which they share resources, leadership and policies. Tribunals Ontario is made up of 14 different adjudicative tribunals with a common Executive Chair and Executive Director. Several tribunals have now been combined into the Ontario Land Tribunal. Federally, the Adjudicative Tribunals Support Service of Canada provides support services to 11 tribunals.

Combining Legal and Health Expertise

The OPSDT and Pilot Tribunals hear discipline cases in five-member panels that include an experienced adjudicator chair, two public members of the College's Board (as required under the Code), one professional member of the College's Board (also required under the Code) and one professional non-Board member. Panels of decision-makers such as this, consisting of experts in adjudication, health care professionals and members of the public are common in Canadian administrative justice.

For example, the Consent and Capacity Board decides a variety of applications, including those related to involuntary status in a psychiatric facility, findings of incapacity to consent to treatment, reviews of community treatment orders, admission to long term care, end-of-life care, capacity to make financial decisions, access to health and youth records, and certain communicable diseases. Its members include lawyers, psychiatrists, other physicians, nurses in the extended class and members of the public. It sits in panels of one, three or five members and multi-member panels must include a mixture of lawyers, health care professionals and public members. The legal member presides and prepares the written decision and the reasons for decision.

The Ontario Review Board and its counterparts in other provinces and territories make decisions about the detention or restrictions on individuals who have been found by a court to be either unfit to stand trial or not criminally responsible on account of mental disorder. Its members include lawyers, judges, retired judges, psychiatrists, psychologists and members of the public. Panels of five are made up of two legally trained members, two health professionals and a member of the public.

The Health Services Appeal and Review Board, which holds appeals, hearings and reviews concerning publicly insured health services under the Health Insurance Act and other hearings, is required to have both lawyers and medical professionals as members, and they may sit together on panels. The lawyer generally presides.

None of these tribunals regularly use independent legal counsel.

Other Professional Regulators

There are also various professional regulators that have panels combining legal experts and others without using independent legal counsel.

The Colleges of Physicians and Surgeons of Saskatchewan, Nova Scotia and Quebec have legally trained members sit on all panels and chair their discipline hearings, as do the College of Immigration and Citizenship Consultants and the Electrical Safety Authority.

Beginning in 2013, the Law Society of Ontario implemented significant enhancements to its hearing process. This included establishing the Law Society Tribunal (LST) as a body with a separate identity from the Society. The LST has its own premises, website and logo along with an independent, full-time chair. Beginning in 2013, it recruited experienced adjudicators to serve on panels along with elected or appointed board members. Appointee lawyer members chair many but not all hearing panels and conduct most pre-hearing conferences. The panels include paralegal and public members sitting together with lawyers, without independent legal counsel.



The Goudge Report

In 2015, the Ministry of Health and Long-Term Care asked Stephen Goudge, a former justice of the Court of Appeal for Ontario, to make recommendations about the complaint and hearing processes at the CPSO. His report recommended, among other things:

- that non-physician members with advanced dispute resolution skills be appointed to the Discipline Committee to deal with cases where a physician pre-hearing conference chair is not required, or where a non-physician pre-hearing conference chair might be more effective; and
- that legally trained persons, experienced in running hearings, be appointed to the Discipline Committee to chair hearing panels in non-clinical standards cases. He noted that would eliminate the need for independent legal counsel at those hearings.

THE NEW MODEL: CORE COMPONENTS

Leadership

OPSDT

The CPSO Board appointed David Wright as the Chair of the then Discipline Committee for a three-year term beginning in November 2020. He was renewed for a further five-year term beginning in November 2023.

A physician serves as Vice-Chair of the OPSDT: James Watters from 2020-2023 and Joanne Nicholson since 2023. The Vice-Chair's primary role has been to provide the Chair advice and feedback and to sit as a panel member on significant or difficult cases.



David Wright has been a full-time adjudicator for over 15 years, serving in senior leadership positions at adjudicative tribunals since 2009. Prior to his appointment at CPSO, he was the Chair of the Law Society Tribunal for over seven years, during which time he led the implementation of the reforms discussed above. Before that he was a Vice-Chair, Interim Chair

and Associate Chair at the Human Rights Tribunal of Ontario as that tribunal implemented the reform of the human rights system and a new adjudicative model. David is bilingual, has been the Chair of the Council of Canadian Administrative Tribunals and is frequently asked to speak at conferences and to other tribunals. He has published several articles on administrative law and practice in peer-reviewed journals.

The OPSDT Chair is responsible for both adjudicative and administrative leadership. His appointment agreement protects his independence, under a structure that has been found by the Divisional Court to be appropriate:¹²

- He is appointed for a fixed term of three years and cannot be removed except for just cause. He must be provided with written reasons and an opportunity to make submissions to the Board if it is proposed that he be removed for cause. Similar provisions are included in the CPSO's agreements with the Pilot Colleges.
- He reports to the Registrar and Chief Executive Officer on operational or managerial issues and with respect to the Tribunal's goals, policies and processes.
- The agreement specifies that nothing in it is intended to prevent the OPSDT Chair from "making any decisions and expressing any opinions in the course of conducting proceedings and writing reasons as an adjudicator."

The OPSDT Chair assigns panels and sits as an adjudicator on CMCs and hearings. Since 2020, he has been case management chair for most files, and has sat regularly as a panel chair or as a single adjudicator deciding preliminary issues. He coordinates the educational programming for adjudicators and often delivers training himself. He and his team have proposed and implemented all aspects of the new model, including recruitment, preparation of policies, guides and practice directions, and the project to update the Rules of Procedure.

The OPSDT Chair has the administrative responsibilities of a director on operational matters like finance, information technology and human resources. The Tribunal Office staff report to him, and he is the final decision maker on matters of case processing. He attends CPSO Senior Leadership Team meetings occasionally, but only when there are operational matters that affect the Tribunal Office.

¹² *College of Physicians and Surgeons of Ontario v. Khan*, 2022 ONPSDT 23; *Kopyto v. The Law Society of Upper Canada*, 2016 ONSC 7545.



Pilot

The leadership model differed at each of the Pilot Colleges. As CMTO had a Pilot and a non-Pilot stream, two co-chairs were appointed. The HPDT Chair fulfills the Chair responsibilities for Pilot cases and a massage therapist – first Kim Westfall-Connor and then Bobbie Flint – exercised the responsibilities for the non-Pilot cases.

At CRPO, the HPDT Chair was appointed as Chair of the Discipline Committee when the Pilot started. In 2024, Shelley Briscoe-Dimock was appointed as Vice-Chair, reflecting the model at OPSDT.

At CASLPO, the HPDT Chair was appointed as Co-Chair of the Discipline Committee. The CASLPO Co-Chair, elected by the members of the Committee, appoints the two professional and two public members to each panel. This position has been held since the Pilot started by Kim Eskritt.

Recruitment of Adjudicators

We engaged in a rigorous process to select the five experienced adjudicators over the summer of 2021. At least five years of experience as an adjudicator was required, although those selected had considerably more experience.

Out of nearly 100 applicants, we selected 20 for interviews. The interview panel was made up of one public member and one professional member of the Discipline Committee, Tribunal Counsel and the OPSDT Chair. In addition to a structured, scenario-based interview, each interviewee was required to watch a video of a mock hearing and write a decision. The written decisions were subject to a blind evaluation, ensuring that the evaluators did not know who had written which decision. Another important consideration was diversity. Four of those selected are women, two are racialized, one is Franco-Ontarian and two can conduct hearings in French. Three live in Toronto, one in Niagara Region and one in the Ottawa Valley. Four have previous adjudicative experience in human rights and three have previous experience in professional discipline for other regulators.

A brief summary of some of their previous and current experience shows the cross-pollination in the tribunal sector. These adjudicators were appointed to the Pilot Tribunals for the Pilot period.



Raj Anand: Multiple adjudicative and public service roles including Chief Commissioner of the Ontario Human Rights Commission and member of the Law Society Tribunal (current). Raj led the working group that proposed the reform of adjudication at the Law Society and the creation of the Law Society Tribunal.



Shayne Kert: Alternate Chair of the Ontario Review Board (current); Alternate Chair of the Nunavut Review Board (current); member of the Law Society Tribunal; member of the Consent and Capacity Board.



Sherry Liang: Assistant Commissioner with the Office of the Information and Privacy Commissioner of Ontario; Vice-Chair of the Ontario Labour Relations Board, the Human Rights Tribunal of Ontario, and the Grievance Settlement Board.



Sophie Martel: Vice Chair of the Workplace Safety and Insurance Appeals Tribunal and the Human Rights Tribunal of Ontario; workplace investigator; member of the Law Society Tribunal (current).



Jennifer Scott: Presiding Officer with the Office of the Chief Coroner; Associate Chair of the Child and Family Services Review Board, Custody Review Board and the Ontario Special Education Tribunals; Vice-Chair of the Human Rights Tribunal of Ontario.

For their complete biographies, see <https://opsdt.ca/adjudicators>.



Building an Independent Identity

Renaming the Discipline Committee

The CPSO’s Board renamed the Discipline Committee of the College of Physicians and Surgeons of Ontario the Ontario Physicians and Surgeons Discipline Tribunal through a by-law amendment. The OPSDT established its own web site (opsdt.ca) and logo.

The use of “Tribunal” identifies more accurately that we conduct open, formal hearings, rather than the type of work done and paper-based process typically used by committees. Given that the College as prosecutor is a party to every case before the Tribunal, the new identity underscores its independence from the College.

The CPSO received an outside legal opinion confirming that the renaming was not contrary to the Code. In accordance with that advice, key documents like

notices of hearing include the note that the OPSDT is the discipline committee established under the Health Professions Procedural Code. There have been no legal challenges to the change of name.

The only other Pilot College to change the name of its discipline committee thus far has been CRPO, in May 2024. It is now known as the Ontario Registered Psychotherapists Discipline Tribunal, pursuant to a by-law similar to that of CPSO.

HPDT Identity

We have begun the process of developing an identity for HPDT. It has its own logo, and we have obtained the internet domain hpdt.ca.

Mission and Core Values

The OPSDT developed the mission and core values set out below to help define its new identity.

MISSION

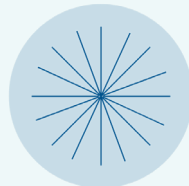
To hear and decide allegations of physician misconduct and incompetence with independence and fairness, making just decisions in the public interest.

CORE VALUES



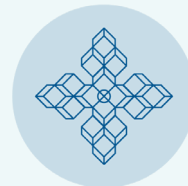
Fairness

We are neutral and ensure all parties are heard. Our decisions and processes are accessible and clearly explained.



Excellence

We aim for high quality decision-making and service.



Respect

We actively listen with humility and empathy. We strive to understand the diverse identities and experiences of parties, witnesses and those affected by our decisions.



Openness

Our decisions, hearings and processes are transparent, balancing openness and privacy.



Timeliness

We recognize the importance to participants and the public of promptly resolving cases. We act and require parties to act in a responsive and timely way.



Panel Composition and Roles

Composition

Panels hearing the merits and penalty are made up of five individuals: two public members of the Board, two professional members, at least one of whom is a member of the Board and one experienced adjudicator who chairs the panel. One-member panels consisting of only an experienced adjudicator sometimes hear pre-hearing motions on issues like adjournments, evidentiary or procedural issues.

As mentioned above, panel composition flows from the Code. There are no restrictions in the Code on who the Board may appoint as a member of a discipline tribunal. Each panel must consist of 3-5 members of the discipline tribunal, two of whom must be public members of the Board and one of whom must be a professional member of the Board. The other two spots may be filled by any member of the discipline tribunal, and our practice is to always appoint another professional, either a member of the Board or not, and an experienced adjudicator.

Roles

While the panel chair is responsible for managing the hearing and writing the first draft of the reasons, all panel members are equal in decision making. Skills in leading inclusive discussions and encouraging participation were one of the core criteria in selecting the experienced adjudicators. A key part of our training focuses on the role of all panel members in deliberations and reason writing.

Here are some quotations from experienced adjudicators about how they promote participation:

- “During deliberations I may start by framing the questions for discussion but ask the panel for their thoughts before offering my own. I will canvass each

panel member for their thoughts on each decision point, if they have not already jumped into the discussion... At the beginning of a hearing (especially with panel members I haven't worked with before), I discuss our mutual expectations around asking questions during the hearing, dealing with objections on the fly (whether it is necessary to consult with the entire panel and how they may signify if they wish to go into breakout.)”

- “At nearly every break, I check in with the other panel members to see if they are comfortable with how I am chairing and whether they have questions or comments. In deliberations, I ask the panel members about how the reasons should be written, often seeking input about specific choices on things like tone and how much detail should be included on certain issues. Where there is a reprimand, it is almost always drafted and always delivered by a professional or public member of the panel.”
- “I have been very deferential to the other panel members, essentially trying to intervene mostly to frame discussions/issues. I have also ensured all panel members are heard by specifically asking for comments from those who have yet to participate in any discussion. For hearings, it has also been important to join hearings well ahead of the scheduled start time to introduce myself and answer any questions or concerns panel members may have. During hearings, it has been important to take breaks and ensure that questions are first discussed among the panel members before being raised with the parties.”

As set out in more detail in the survey results in Part II, nearly all Tribunal members felt they were contributing, with some saying it was easier to do so than in the previous system. Many noted that the experienced adjudicators made sure all voices were heard.

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Legality of the Model

Some lawyers in the regulatory legal community have expressed concerns, including in their feedback on the Pilot for this report, that the presence of a lawyer on a panel is improper on the basis that the lawyer is giving “legal advice” to the other members of the panel that is not being shared with the College and the defence and that the process is therefore less transparent. Section 44 of the Code, similar provisions in other legislation and the common law require that if a panel in any administrative tribunal obtains formal legal advice, it must disclose that advice to the parties and give them a chance to make submissions on it. The concern raises both legal and transparency grounds.

An example of the concerns is the following response to our survey:

“Transparency may be lacking as legal advice provided by the Experienced Adjudicator to the panel is not made available to the parties (as compared to ILC who provided their advice on the record).”

In light of concerns such as this, we obtained a legal opinion in May 2023 from Nadia Effendi, a partner at Borden Ladner Gervais LLP. Ms. Effendi is recognized as one of the leading administrative and public lawyers in Canada. Her detailed opinion, which can be provided on request, concludes that a lawyer serving as a panel member is not providing legal advice and the panel composition is not improper.

There are other factors that give us confidence that the model is appropriate:

- The model was recommended by Justice Goudge, also recognized as an expert on administrative law.
- As discussed above, panels that combine lawyers and non-lawyers without using independent legal counsel are common in Canadian administrative tribunals, and to our knowledge the model has not been challenged or overturned in the courts.¹³

- The panel is required to raise with the parties any analysis, factual or legal, that the parties did not raise. The parties then have the opportunity to make submissions about it. Indeed, panels have done so in OPSDT and Pilot cases.¹⁴
- Under the previous model, discussions or communications with lawyers that are not known to the parties and are not formal “legal advice” take place, including through review and assistance with decisions by independent legal counsel or the drafting of decisions on behalf of the panel by legally trained decision writers.¹⁵

Adopting Adjudication Best Practices

Active Adjudication and Case Management

Under the new model, the Tribunal takes a more active role in moving cases forward by promoting early settlement or partial agreement where possible, identifying pre-hearing issues and deciding them sooner with less formality. Panel chairs also take a more active role in hearings. This stems directly from the HPDT Chair and the experienced adjudicators’ expertise in alternative dispute resolution.

The first case management conference is scheduled immediately upon filing of the Notice of Hearing. Depending on the nature of the case, more CMCs are often held before the hearing is scheduled. Given the HPDT Chair’s availability, a CMC can be scheduled on short notice to quickly deal with issues.

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¹³ The principles set out in s. 44 are a codification of common law principles of fairness, so the same principles apply whether or not there is an explicit provision to this effect. Some statutes under which tribunals use this model have a similar section to s. 44. *Health Insurance Act*, R.S.O. 1990, c. H.6, s. 23 (2) (Health Services Appeal and Review Board); *Health Care Consent Act, 1996*, S.O. 1996, c. 2, Sched. A, s. 77 (2) (Consent and Capacity Board).

¹⁴ *R. v. N.C.*, 2024 ONCA 239. This occurred, for example, in *College of Registered Psychotherapists and Registered Mental Health Therapists of Ontario v. Becker*, 2024 ONRPDT 7 (legal issue) and *College of Physicians and Surgeons of Ontario v. Fagbemiun*, 2022 ONPSDT 11 (factual issue).

¹⁵ *Khan v. College of Physicians and Surgeons of Ontario*, 1992 CanLII 2784 (ON CA).



Some examples of the use of the case management process are:

- A matter that had been referred to a discipline committee in 2019 began case management when the Pilot began in spring 2023. After several case management conferences, the parties reached a joint submission. An uncontested hearing took place in October and the decision was released in early November 2023.
- A self-represented registrant advised at a CMC in early October 2023 that they would bring a motion to disqualify College counsel from acting on the case. The case management chair set a schedule under which the motion would be heard in writing, with submissions to be made in November and early December 2023. The decision on the motion was released two days after the written submissions were complete, allowing the matter to move forward.
- Several hearings where the registrant was not participating were heard in writing, avoiding scheduling challenges and reducing hearing costs.
- Through changes to scheduling practices and the use of case management, payments to OPSDT members for late cancellation of hearing dates decreased by 81% between 2021 and 2023.

There may be cases in which it would be helpful for the registrant to hear the perspective of another member of the profession. If this is identified by either of the parties or the case management chair, a CMC can be conducted jointly with a professional member.

Issues-Based Reason Writing

Best practices for writing of court and tribunal reasons have undergone a revolution in recent years. Led by Justice John Laskin, formerly of the Court of Appeal for Ontario, and Ed Berry, an English professor at the University of Toronto, most legal decision makers now write very differently from the way that the courts and tribunals did previously. This approach rejects legal formality and templated decisions in favour of an audience-focused approach that emphasizes the organization of the decision based on the issues in the case, plain language and conciseness.¹⁶

Our approach to decision writing reflects this. The experienced adjudicators have all written many decisions using this approach, and indeed, their ability to do so was an important criterion when evaluating decisions during the recruitment process. Reasons look quite different than they used to and, we believe, better capture the expectations of the courts. We also promote quality decisions through a formal decision review process.

New Rules of Procedure

OPSDT implemented new Rules of Procedure to replace the previous OPSDT Rules, which were similar to those of most other health professions' discipline committees.¹⁷ They took effect on January 1, 2023, and were developed following an extensive process of research, consultation and drafting.

The approach to the revisions was centered around several principles (see Rule 1.1.1):

- the overarching importance of fairness;
- accessibility and understandability, using plain language and simplified processes;
- flexible processes, allowing for adaptation to the circumstances of each case;
- adopting successful practices used at other regulators and tribunals; and
- ensuring that matters move forward expeditiously.

¹⁶ See Edward Berry, *Writing Reasons: A Handbook for Judges*, 5th Edition, 2020.

¹⁷ <https://opsdt.ca/hpdt/rules-of-procedure>



Here are some of the most significant changes:



Rule 2 – Openness

Under most Colleges’ current rules, a member of the public who wishes to obtain copies of documents in the discipline tribunal’s record must file a motion to do so. This can take some time. Pursuant to a 2018 decision of the Superior Court of Justice, the “open courts principle” applies to administrative tribunals. Among other things, the public must have timely access to hearing materials.

Rule 2 adapts to these changes. It establishes an automatic publication ban on the names of patients and anything that could identify them. If a party asks for additional information to be subject to a publication ban or made not public, it sets out the test to be applied, which comes from Supreme Court of Canada caselaw.

Materials in the record are public, and if there is personal health information or other personal information, it must be redacted by the party filing the document. This can be done by filing two versions: one public and one not public. A process like the old process applies to documents filed before the rules came into effect, to protect reasonable expectations of the parties.



Rule 3 – Accommodation and Language

The rule codifies the rights of participants to accommodation in accordance with the Human Rights Code, to communicate with the discipline tribunal in English or French and to an interpreter. It also sets out the right of the registrant to choose the language of the proceeding, subject to reasonable limits.



Rule 8 – Statement of Particulars

The tribunal may direct either party to provide more information (particulars) about their position.



Rule 9 – Case Management

This rule sets out the discipline tribunal’s case management approach and the values that underly it. It sets out the following four goals of case management:

- a. hearings progress in a fair and timely way, in the public interest;
- b. hearing time is used efficiently and effectively;
- c. procedural and legal issues are identified early; and
- d. adjournments are only necessary in exceptional circumstances.

This rule requires a case management conference in every proceeding, and describes what the case management chair may do, including exploring and applying alternatives to traditional adjudicative or adversarial processes.



Rule 12 – Hearing Preparation

Rule 12.3 – This rule is used mostly when the registrant is not participating. If one party sends a request to admit and the other party does not respond, the other party is deemed to have admitted the facts contained in the request to admit. This avoids the need to call evidence if the registrant isn’t participating, since the hearing can proceed based on the deemed admissions. A similar rule at the Law Society Tribunal was recently upheld and applied by the Divisional Court.¹⁸

Rule 12.4 – This rule requires each side to provide the other with a list of witnesses and a summary of their anticipated evidence. It also requires the parties to file the documents they may rely upon, including any agreed statement of facts or joint submission on penalty, one week in advance so that the panel may prepare.



Rule 13 – Registrant Applications to the Tribunal

Rule 13.3 – The Divisional Court decided, in *Li v. College of Physicians and Surgeons of Ontario*,¹⁹ that the Health Professions Procedural Code implicitly allows a discipline committee to remove or vary an indefinite term, condition or limitation on a certificate of registration. The CPSO Discipline Committee had previously concluded it had no power to do so. The court found that it was “not for us [the court] to determine the circumstances in which a member may seek a variation of a term as that issue is not before us on this application.” (para. 30) This rule sets out these conditions.

¹⁸ *Khan v. Law Society of Ontario*, 2024 ONSC 3092.

¹⁹ 2008 CanLII 37613.



Rule 14 – Hearings

Rule 14.1 – This rule sets out a set of factors to be considered when determining a request that a hearing be held all or partially in person.



Rule 17 – Costs

Rules 17.1.1 and 17.1.2 – The *Statutory Powers Procedure Act* allows a tribunal to make rules to order costs in circumstances other than those set out in the Health Professions Procedural Code if a party has

acted in a way that is unreasonable, frivolous, vexatious or in bad faith, and this rule does so. Examples of new situations in which this rule would allow costs include before the end of the hearing (for example, after a frivolous motion) or in favour of a third party who had to respond to a third-party records motion. Rule 17.2.1 allows for costs because of an adjournment less than two weeks before the hearing.

There are also several provisions of the Rules that, while not new to OPSDT in 2023, would be changes from some other Colleges' discipline committee rules.

Rule 9.4.1 – Both parties, rather than only the College are required to prepare a case management conference memo.

Rule 10 – Adjournments are granted only where it is necessary for a fair hearing, even if both parties consent.

Rule 12.4 – Both the College and the registrant are required to provide the other, in advance, a list of witnesses, a summary of what each witness will say and a copy of all documents the party may rely upon. This is sometimes called “reciprocal disclosure.”

Rule 14.3 – This rule allows the parties to agree that the registrant will plead “no contest.” This means that the registrant does not admit the allegations. The registrant accepts that the discipline tribunal can rely on the facts set out in a Statement of Uncontested Facts provided by the College, but only for the purposes of the College proceeding.

Rule 14.5.1 – This rule mirrors a similar provision in the Criminal Code that prevents the use of a complainant's sexual history except in certain circumstances.

Companion Resources and Adoption

The Tribunal has prepared practice directions, forms, frequently asked questions, and guides to provide plain language information for registrants, witnesses and members of the public about the process as a whole and specific issues. These work together with the rules to promote understanding of the process and transparency. They also assist in meeting our responsibilities to self-represented registrants.

All three Pilot Colleges kept their existing Rules of Procedure for the first year, with the addition of a modified version of the OPSDT's case management rules for their Pilot cases. When the Pilot was extended in spring 2024, both the CASLPO Discipline Committee and the ORPDT adopted the new rules, forms and guidelines. They were all amended to remove any OPSDT or CPSO-specific references and are now on a separate portion of the website (opsdt.ca/hpdt). CASLPO, CRPO and OPSDT all link to this webpage from their own websites. Each retained their previous approach to costs, reflected in Tariff A.



Education

Orientation

We have designed a four half-day orientation program, delivered mostly virtually, for new public or professional discipline tribunal members. Its topics include: the RHPA, the Code and its discipline provisions, procedural fairness, the burden of proof, rules of evidence, reason writing, deliberations, myths and stereotypes in sexual abuse cases, joint submissions, penalty principles and making credibility determinations. It is interactive and uses a variety of teaching techniques to support different styles of adult learning. It has been coordinated and delivered by Dionne Woodward, Tribunal Counsel and David Wright.

We have tailored the orientation to the new model. For example, we emphasize the role of panel members in deliberating, reviewing and commenting on reasons in a way that will strengthen the final product and ensure their voices are heard. In relation to hearing management, while they must have an understanding of the role of the panel chair and the principles applied, they do not need to be trained to chair themselves.

In each Pilot College, there has been an orientation to the profession for the experienced adjudicators delivered by professional members of the discipline tribunal, as well as an introduction to the Pilot for the other members provided by the HPDT Chair and counsel.

In the spring of 2024, a joint orientation was conducted for new members of the OPSDT and the CASLPO Discipline Committee. When orientation is urgent, for example when a new member is needed to sit on hearings shortly after their appointment, they have watched a recording of the most recent training.



Ongoing Professional Development

The OPSDT has had semi-annual business/education meetings, with sessions facilitated by both Tribunal Office staff and guests. These have included:

- reason writing and deliberations;
- discussions with judges;
- lessons for our work from cognitive science;
- reprimands;
- trauma-informed adjudication;
- the law of evidence;
- deliberation scenarios; and
- the role of counsel cross-examining complainants where there is a self-represented registrant.



Annual Conference

A one-day conference was held in November 2023, in person with an on-line option, for the members of all four discipline tribunals. It provided an opportunity both for learning and for the decision makers from different Pilot Colleges to network with each other and discuss their work. Sessions included:

- a panel of lawyers who prosecute and defend health discipline cases providing insight on hearings from their perspective and that of their clients;
- a deliberation exercise with breakout “discipline panels” made up of public and professional members from each College;
- equity in adjudication;
- mandatory revocation and sexual abuse: a legislative history;
- freedom of expression and professional discipline; and
- a networking reception.

Sessions were organized and delivered by Angela Peco, Manager and Tribunal Counsel at CMTO, Dionne Woodward and David Wright. Guests included Superior Court Justice Andrew Pinto, Palma Paccioco, a professor at Osgoode Hall Law School and Grace Vaccarelli, a mediator and investigator with over 20 years of experience in human rights.

Our second annual conference is scheduled for November 2024.

Feedback on the sessions was very positive. The overall rating for the conference by the participants who completed the evaluation was 4.72 out of 5. Here are some comments we received on the evaluation:

“Great conference, well organized, education sessions were really good. The deliberation exercise was excellent and allowed networking as well as education.”

“I hope this will become a yearly event!”

“...[A]ll of the sessions seemed short, but I think that was because they were so interesting and time went by fast.”

“Great day of learning. The deliberation exercise and comparison of decisions from each group was very interesting.”

“I liked the varied style of presentations. Fireside chat was excellent.”

“Breakout session was great! Really liked the design of the exercise. Seemed daunting at first but we rolled into it quickly. Really liked hearing thought process of other professionals from different backgrounds and Colleges.”



The Pilot has also led to benefits for individual Colleges' education. For example, Angela Peco presented to the OPSDT about the CMTO Discipline Committee's experience with appointing counsel to cross-examine complainants in contested sexual assault cases where the registrant is self-represented. This situation is common at CMTO, but recently arose at OPSDT for the first time. Similarly, David Wright made presentations at CMTO business meetings on topics such as evidence, reason writing, and updates on caselaw. Tribunal Office staff will coordinate a business/education meeting for the ORPDT in the spring of 2025.

Newsletter

We send all members of the Pilot Tribunals and OPSDT a monthly newsletter, containing updates on decisions released in the Pilot, as well as other decisions of significance for health discipline. The newsletter, which began with the OPSDT before the Pilot and then expanded, is largely written and edited by Dionne Woodward. David Wright also writes a monthly column, usually about practical issues that arise in adjudication. All members also have access to an archive of all previous issues.



Timeliness



Deadlines are set so that decisions are released within 84 days of the last hearing day or final submissions. This standard has been met in every case under the new model, both at OPSDT and in the Pilot, with most decisions being released more quickly. We have prepared a policy on reason preparation, review and release that establishes deadlines for each step in the process, from the first draft being provided to the panel to legal and peer review. It also establishes a process and expectations for these reviews, consistent with the requirements set out by the Court of Appeal.²⁰

The average number of days to complete a discipline file at OPSDT decreased from 429 to 285 between 2020 and 2023. In 2023, the OPSDT's key performance indicator was 15 months from referral to the completion of the discipline process (80th percentile). As of December 2023, the 80th percentile was 11 months. In 2024, the KPI has been reduced to 12 months, with tighter criteria for exclusion from the measure. Considering that before the new model, the CPSO Discipline Committee was struggling to meet a target of starting hearings within one year, this is a dramatic change.

Data on timeliness at Pilot Colleges follows later in this report.

Financial Implications for CPSO



While the primary motivation for change was not financial, the new model has resulted in significant cost savings for CPSO. Given other changes in recent years, in particular a lower volume of referrals and the shift to virtual hearings, it is difficult to separate how much of the savings are due to each of these factors.

Significant savings have resulted from the following:

- elimination of fees for independent legal counsel to attend hearings, provide advice and support to staff in the Tribunal Office and review decisions;

²⁰ *Shuttleworth v. Ontario (Safety, Licensing Appeals and Standards Tribunals)*, 2019 ONCA 518.



- reduced hearing time;
- reduced reason writing time;
- reduced cancellation fees;
- reduced time for decision review and editing;
- CMCs and hearings conducted by the OPSDT Chair; and
- education organized and delivered by the OPSDT Chair and Tribunal Counsel rather than ILC.

Electronic Hearings and Hearing Support



The new model coincided with the general adoption of electronic hearings by professional regulators and other tribunals throughout Canada because of the pandemic. All OPSDT hearings have been conducted by videoconference. The OPSDT has established a Rule and Practice Direction that sets out the factors to be considered when there is a request that all or part of the hearing be held in person.

The move to electronic hearings has had various advantages. In particular, it has assisted with the challenges of scheduling five-member panel hearings with a small pool of members who meet the statutory requirements for public and physician board members and live across Ontario. Largely eliminating the need for travel means that an out-of-Toronto panelist with a commitment one evening during the week in their home city can still sit, or a panel can sit on Monday, Tuesday and Friday to accommodate schedules without wasted costs. The same advantages apply to witnesses, registrants and lawyers from outside Toronto.

Electronic hearings have also had significant benefits for transparency. Anyone, such as complainants, the registrant’s family, media or members of the public can watch a hearing without travelling to downtown Toronto.

OPSDT piloted various methods of supporting electronic hearings before reaching an agreement with First Class Conferencing Facilitation (FCCF). FCCF specializes in supporting electronic legal hearings and also supports coroners’ inquests and arbitrations, among other hearings.

FCCF, among other functions:

- sets up the Zoom hearing and the livestream accessible only through a private link;
- sets up and manages a webpage that automatically sends users who provide their name and email address the link to watch a hearing, together with relevant information;
- moves panel members, counsel, witnesses and other participants in and out of the breakout rooms;
- has expertise in troubleshooting technical issues, resolving them quickly;
- displays documents as requested by the parties or the panel, which, if appropriate, can be blocked from being viewed by the public;
- displays information on the livestream if the hearing is delayed or on a break;
- marks exhibits and other documents;
- prepares a report for the Tribunal Office staff summarizing what occurred at the hearing, including a witness list and exhibit list;
- provides a video recording from which a transcript can be generated by a court reporter, making it unnecessary to have a court reporter present during the hearing.

Among other advantages, we have found that using FCCF rather than staff allows for flexible scheduling, since FCCF can support multiple hearings on the same day. It has led to less delay due to participants’ technical issues and allows staff to focus on case processing, with other work less disrupted by hearing days.

In the Pilot, CMTO and CRPO staff have continued to support virtual hearings, while CASLPO has used FCCF.



Ongoing Consultation

The OPSDT established the Practice Advisory Group for feedback from those who regularly represent the College and defence before the Tribunal. A similar roundtable was established under the Pilot.

Appeals

There have been two appeals from OPSDT decisions under the new model. Both were dismissed, with positive comments from the court. There have not yet been any appeals from Pilot decisions in the other Colleges.

In *Fagbemigan v. College of Physicians and Surgeons of Ontario*, 2023 ONSC 2642, the registrant argued that the Tribunal had not fulfilled its duties to him as a self-represented litigant. The court said, at para. 47, “The transcripts clearly demonstrate that the Tribunal patiently and carefully assisted the Appellant throughout the process.” Among the issues in this case was a *Charter* challenge to the College investigators’ having viewed and removed documents during a site visit to the registrant’s clinic. The court fully upheld the Tribunal’s constitutional and professional misconduct analyses.

In *Aboujamra v. College of Physicians and Surgeons of Ontario*, 2023 ONSC 3344, the court spoke of the Tribunal’s “detailed and nuanced credibility findings” (para. 77) in rejecting the multiple challenges to the decision in a highly contested sexual abuse case. An application for leave to the Court of Appeal for Ontario was dismissed.

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IMPLEMENTING THE PILOT

Differences Between Colleges

During the Pilot phase, the division of responsibilities between the OPSDT and each participating College varied. Each College brought unique backgrounds and experiences in discipline matters, leading to different approaches. This diversity assisted us in evaluating the pros and cons of different options, and allowed the Pilot Colleges to adopt the arrangement that best suited their needs.



CMTO has the highest volume among the Pilot Colleges: 20 new referrals and 46 cases closed in 2022. It has a high volume of sexual abuse cases relative to its size; 56% of the cases before the CMTO Discipline Committee in 2022 were sexual abuse matters. The CMTO has a Hearings Office with several full-time staff, well-established processes and

experience in many different types of cases. Its staff and Discipline Committee members, because of this volume, have extensive experience and involvement in all aspects of discipline work under the existing model.

CMTO established two tracks. Any case in which sexual abuse was alleged and there was no activity prior to the start of the Pilot was assigned to the Pilot track. Cases with sexual abuse allegations in which there had been activity under the existing model, and cases where sexual abuse was not alleged, were assigned to the standard track. As a result of its higher case volume and experience, CMTO staff did all administration and hearing support for all cases, including those assigned to the Pilot. CMTO adapted some of the OPSDT’s policies, practices and precedents for its Pilot cases. Other cases continued as before. The two tracks were important to CMTO, among other reasons, so that it had the option to easily return to the previous system after the Pilot if either it or OPSDT decided not to continue, and so that it could make comparisons as part of evaluating the success of the new model.



CRPO’s Discipline Committee received five referrals in 2022. For the first year of the Pilot, CRPO staff continued to do all case processing and hearing support,



under the primary direction of the HPDT Chair. It adopted the policies, practices and procedures of the OPSDT, with modifications to reflect the fact that the Rules were not the same. In the spring of 2024, when the Pilot was renewed and the Rules of Procedure were harmonized, the Tribunal Office took over case processing, using the same templates and processes as for OPSDT cases.



CASLPO's Discipline Committee received four referrals in 2022. At CASLPO, the OPSDT staff did case processing from the beginning of the Pilot. Tribunal Office staff prepared modified versions of the guides

and practice directions (where possible), to reflect the differences between the OPSDT and CASLPO Discipline Committee Rules of Procedure. The CASLPO-specific versions were no longer needed when the Discipline Committee adopted the HPDT Rules of Procedure.



Memorandum of Agreement

The Pilot was implemented through a memorandum of agreement between the CPSO and each College. The significant provisions were:

- The College would make changes to its by-laws, where needed, to allow for the experienced adjudicators to be appointed to its Discipline Committee and for the appointment of the HPDT Chair.
- Staff would recommend to the Board the appointment of the Pilot Chair and the five experienced adjudicators to the Discipline Committee for a term parallel to the term of the Pilot. The agreement would be null and void if the Board did not make the appointments.
- The independence of the HPDT Chair and adjudicators would be protected.
- A participants' committee consisting of representatives from all four Colleges would meet bimonthly.
- A dispute resolution process.



Cost Sharing and Billing Structure

The financial arrangements were designed to reflect the following:

- CPSO is not making any profits.
- The financial approach should be clear and simple, with as little time as possible spent on administration.
- Rates should compensate CPSO for its expenses on the Pilot and for a share of salaries and administrative costs based on the time spent by its staff (including the HPDT Chair) on Pilot matters.
- Common costs should be shared equitably between the Pilot Colleges.

For the first year, the Pilot Colleges were billed only based on the time spent by the experienced adjudicators and HPDT Chair on cases and their attendance at College-specific educational programs. The OPSDT has a remuneration policy that sets out the activities for which adjudicators are compensated, including preparation, hearing and CMC time, deliberations and reason writing. There are also limits on the number of hours that can be claimed based on the nature and length of the case, which can be increased where appropriate based on the circumstances of a case with authorization of the HPDT Chair. The Pilot Colleges also reimburse CPSO for the disbursements on their behalf.

The hourly rate compensates for the adjudicator time and the time spent on administration, education, set-up and other costs. There are no separate charges to the Pilot Colleges for matters like education, administration, decision review or meetings attended by Tribunal Office staff and the HPDT Chair.

The first year's hourly rate was \$275 per hour for Colleges where their staff did case processing and hearing support and \$325 per hour where OPSDT staff were doing that work. These amounts were increased for inflation in 2024 to \$282 and \$334. The OPSDT staff recorded the amount of time they spent so that calculations could be done to determine whether the gross-up from the amounts paid to the adjudicators was over or under compensating CPSO for its staff's



time. The agreements provided that if CPSO was over compensated, it would use the surplus for future HPDT activities or return it to the Pilot Colleges. If the CPSO was under compensated, it could use future revenues to compensate for the deficit but there would be no extra charges to the Pilot Colleges.

During the first year, CPSO was under compensated. We concluded that was for three main reasons: the large amount of time and expenses associated with start-up, that the rates had been set too low and a higher-than-expected amount of time spent in meetings with and adjustments to policies and practices for individual Colleges.

In addition, the costs paid by some Colleges were disproportionate to the amount of time spent on their matters. This was because, first, there were differential amounts of time spent adapting to the needs of individual Colleges. Second, case processing and pre-hearing work often did not correspond with the amount of remunerable time on a particular file, particularly if a lot of work was put into case management that successfully reduced hearing time. Third, there was a base amount of non-remunerable time that did not vary with caseload, for example preparing the newsletter, offering educational programming or preparing invoices.

Accordingly, when the Pilot was extended, participants agreed that rather than raising the hourly rate, each Pilot College would pay a base fee of \$1,000 per month. While it is too early to reach any conclusions, it appears that with this change the compensation is more accurately reflecting CPSO's costs and equitable sharing of expenses.



Information Technology

IT proved to be a challenge. Initially, CPSO IT was not used for any case-related matters in the other Pilot Colleges. This required experienced adjudicators to juggle multiple laptops, email addresses and other systems. Additionally, Tribunal Office staff had to monitor multiple email boxes and learn different systems. This proved to be unwieldy, time consuming and prone to error. Accordingly, in

2024 the IT arrangement was changed so that the adjudicators use their CPSO equipment and email addresses, and staff use CPSO systems. An internal CPSO protocol has been established so that Pilot Colleges' data cannot be accessed by anyone other than Tribunal Office and CPSO IT staff without the authorization of the Chair or the Registrar of the College concerned. Once a discipline file has been closed, the file is returned to the College concerned for retention and the CPSO does not retain the data. A common email box is used for the three discipline tribunals whose cases are administered by the Tribunal Office.

Scheduling

The requirements of the Health Professions Procedural Code for panels that include three Board members -- two public and one professional -- created challenges for scheduling at all Colleges, given the numbers of public members and the limitation on theirs and professional members' schedules. This often increased the amount of time and back-and-forth needed to set hearing dates.

Fitness to Practise Committee

At CPSO and CRPO, the HPDT Chair is also Chair of the Fitness to Practise Committee and the membership is the same as the discipline tribunal. There has not yet been a hearing of a Fitness to Practise case at either College since the new model was implemented.

Summary of Current State

- OPSDT, ORPDT and the CASLPO Discipline Committee have common rules, guides, practice directions and forms, and a common "resources" website that contains them. The Tribunal Office does case processing, decision review and decision preparation and release throughout the life of a discipline file, using common processes, templates and forms. With some exceptions, the Tribunal Office is responsible for all aspects of the file from referral to final reasons.



- CMTO has two streams: a Pilot stream for cases that allege sexual abuse and a regular stream for other cases. It maintains its own Hearings Office, which does the case processing and decision review and release for Pilot and non-Pilot cases, using materials for the Pilot cases adapted from but not the same as those used elsewhere. CMTO has separate rules, policies and procedures, and has adapted the Pilot templates as appropriate.
- Each Pilot College pays a base fee plus an hourly rate for adjudicator time. The hourly rate varies depending on the level of service provided by the Tribunal Office.
- The experienced adjudicators and the HPDT Chair are cross-appointed to each Pilot Tribunal.
- The Tribunal Office offers, without additional charge, educational programming including a full day or two half days of College-specific business/educational programs, a monthly newsletter and a full-day conference. There is a registration fee per attendee to cover the costs of outside speakers, food, the venue, IT support and related matters.



Part 2

Feedback and Data

Feedback and Data



QUALITATIVE FEEDBACK

We sought feedback through a Microsoft Forms survey, which asked open-ended questions. We sent separate, tailored surveys to lawyers on the HPDT Counsel Roundtable, to discipline tribunal members (including at OPSDT) and to the experienced adjudicators. We received 12 responses from counsel, 51 from discipline tribunal members and five from experienced adjudicators. Participants were free to reply anonymously or provide their name as they wished.

Overall, the responses were extremely positive, although some discipline tribunal members were limited in their ability to comment because they had not yet sat on a case in the new model. Most respondents believed the Pilot had met its objectives, that the changes were positive and that it should continue. The discipline tribunal members were generally more positive than counsel. As discussed below, a theme among counsel respondents was a concern that there was a lack of transparency because independent legal counsel was not present.

Discipline tribunal members reported a greater ability to focus on the substance of the case rather than legal procedure and an improved deliberation process.

Panel Composition

Leveraging diverse skill sets

The discipline tribunal members who had participated in Pilot hearings were nearly universally supportive of the change to panel composition. They reported a greater ability to focus on the substance of the case rather than legal procedure and an improved deliberation process.

"The difference is that with the experience our discussion time has reduced and the adjudicator makes sure that all the panel members' concerns are heard."

"My concerns as we made the change between the outside legal advisors and the experienced adjudicators was gone working with individuals with strong interpersonal skills in addition to a wealth of legal knowledge."

"I was surprised and very pleased with this new approach. Initially I was concerned with the reduction in physician members of the panel but the new arrangement works very well..."

"[T]he experience and skill sets that the Chair brings to the hearings allow us to be more effective while providing us with an educational component that would have been lost if they were not part of the process. They lead us through support and collaboration."



Every perspective counts

We asked the discipline tribunal members whether they felt their perspectives were heard and considered. There was nearly unanimous agreement.

“Absolutely. The adjudicator/chair of the hearings I participated in made a point of including all members in the discussion, circulated written drafts in a timely manner, incorporated suggestions/edits and opened further discussion on items as required.”

“Fantastic job ensuring that everyone is heard, their questions are answered and reinforcing that there are no stupid questions.”

“Deliberations have been handled well. It’s definitely easier to review and comment on shorter, more plain-language documents that are provided in reasonable time following a hearing.”

“During deliberations all voices are encouraged and heard better than ever.”

Other Comments

A small number of discipline tribunal members expressed concerns. One was concerned that an adjudicator did not have sufficient skills and knowledge. Another expressed concern that the non-lawyer discipline tribunal members’ legal knowledge was not being developed. A third explained as follows:

“Compared to a traditional deliberation I do not feel as involved. It felt more like the experienced adjudicator gathering a small amount of input from the panel to satisfy the requirement. I do not necessarily see this as a negative.”

Several lawyers expressed concern that without independent legal counsel providing legal advice on the record, the process was less transparent. They expressed concern that the panel chair was improperly providing “legal advice” in deliberations. One expressed concern that the panel chair was improperly dominating:

“My other concern is that the Chairs dominate the proceedings, which has happened in every hearing to date.”

Other counsel expressed the opposite view, for example:

“I think it makes eminent sense to hire experienced lawyer adjudicators in lieu of ILC. As much as the ILC work is excellent for lawyers such as myself, it does not make sense from a resource perspective.”



Perspectives of the Experienced Adjudicators

Most respondents commented that the Pilot was effectively achieving its objectives. Many commented on the collegiality and discussions among the experienced adjudicators, who meet once a month to discuss issues and approaches. All appreciated the relationships they had built with professional and public discipline tribunal members, although some found it challenging given the number of members of the different Pilot Tribunals and often small volume. The HPDT Chair has been informally assigning a subset of adjudicators to each Pilot Tribunal where possible, and in general the adjudicators supported this approach.

Experienced adjudicators expressed concern about differences in technology and process, between the Colleges, but were pleased with changes that had been made in that regard in 2024. Generally, they were pleased with administrative support.

Case Management

There was strong support among both discipline tribunal members and counsel for the more intensive case management. Respondents felt that it improved the efficiency of the process. One respondent noted that the ability of the CMC chair to provide information to self-represented litigants from a neutral perspective was helpful. Examples of the comments are:

“The robust case management, in my experience has been extremely effective. Parties are able to schedule a case management conference with very little notice. The CMC directions are usually issued within 24 hours, and the directions I have received have been clear and fair.”

“Also, the CMC Chair has the power to make procedural orders, which is helpful and brings more certainty in the process. We also appreciate that the CMC Chair adopts flexible approaches and is open to waive certain procedural requirements to be efficient.”

Several discipline tribunal members mentioned that the case management process had reduced surprises and cancellations.

Two lawyer respondents emphasized that the CMC chair should not be heavy-handed in promoting settlement. One suggested that the CMC process should better take into account different policy approaches to resolution at different Colleges and better coordinate ADR techniques with College counsel. One suggested that pre-hearing hearing conferences were less effective than they were with a member of the profession serving as chair. As set out below in the description of the new model, we can include members of the profession in CMCs along with the case management chair as appropriate.



Quality of Hearings and Reasons

The strong view among the discipline tribunal members was that hearings were smoother and the process more efficient. Many commented on the quality of the reasons and the benefits of receiving them more quickly after the hearing.

There was near unanimous support among discipline tribunal members for obtaining the parties' materials in advance, with several respondents noting that the amount of preparation could be heavy.

Most counsel commented positively on the quality of hearings and reasons. Two respondents suggested there was little difference from the previous model and two suggested that some reasons were difficult to understand. One respondent commented that reasons in joint submission cases were sometimes too short.

"I have always found that having an experienced Chair that is able to navigate the system allows for a more effective and efficient process, allows for more genuine conversations, and provides the panel a solid foundation of experience and application."

"The Pilot has been extremely effective. The quality of hearings has increased drastically with experienced chairs and removing ILC. As a public member, I feel a lot more confident in the proceedings under the Pilot than previous Discipline Panels. Decisions have been released a lot faster and more well written. Overall this has benefited our College and the public interest and we should continue this process."

"I've noticed a significant quality improvement of deliberation discussions under the Pilot."

"Increased efficiency, increased clarity of writing, and in my view increased accuracy on important points of law."

"In my opinion, the Pilot project is such an asset to the CMTO discipline system. Hearings progress so much more efficiently with expert tribunal and panel leadership. The experienced lawyer is able to keep panel members from straying into the weeds while deliberating. Detailed reasons for decisions are received in a timely manner. The efficiency of this whole process is astonishing. Love it."

"Although it takes time pre-hearing, time is saved during the hearing/deliberation phase, making it a worthwhile activity."

"[Receiving materials in advance] is the best part of the Pilot project for me. It is such a benefit to be able to review and absorb this information prior to the hearing."

"Very significant impact – allows opportunity to review the material which enhances the panel discussion and makes for an efficient use of time."



Education

Comments on the educational offerings were nearly universally positive.

"I have found the education to be the most beneficial part for me so far. Being a member of the CMTO we have two discipline streams and the education from the HPDTP has been an immense benefit to my work on the non HPDTP stream as well as the HPDTP stream."

"Joint educational conference enabled me to see the road block or ways others have overcome. The complexity of the different Colleges and the relationship with their clientele impacts the type of hearings."

"I find that David's presentations are always educational and engages all the members. He brings scenarios and case examples from other institutions and his personal experiences as well. The newsletter keeps us informed about the current cases and outcome of the tribunals."

"Education has struck the right balance with business meetings, complemented by other learning opportunities, presentations and the newsletter which I thoroughly enjoy and learn from. Keep up the great work."

"My orientation session to discipline hearings was very elaborate and informative. I use this as my reference point for any hearing meetings. The monthly newsletter is a valuable tool and helps me understand the jargon used in the process."

"The joint educational conference was outstanding. The newsletter is well done and very informative."





A Selection of General Comments

"Very impressive conceptualization and work by many. Very positive impact."

"I think this has been a successful experiment."

"Not having to Chair hearings and write D and Rs has eliminated the significant anxiety associated with those tasks."

"I believe the Pilot has been effective. The proceedings are more focused, the Case Management and decision writing much better. I support adopting this model going forward."

"It is an exciting initiative that has done a great job with our committee so far. Thank you for everything you've done to date."

"My peers seem pleased, and I have heard only good things from those who have sat on panels. It is great to hear the experienced adjudicators refer to their experience with other Colleges and their processes, as it gives insight into what we do at ours."

"In the matter of fairness and credibility the Pilot model is essential, but I on occasion feel we are relinquishing our own College's responsibility to regulate our own."

"I believe that this initiative should definitely continue to become our 'new normal.'"

"The Pilot has been a huge success thanks to David's leadership. It is also a great example of cross sectoral collaboration."

"Turn the Pilot into a full tribunal."

"It is exciting to be a part of a program that is growing in the right direction, for the right reasons. Thank you!"

"At this time, all I have to share is, 'Keep doing what you are doing.'"

"I would recommend this Pilot to all Colleges."

Feedback from Non-Pilot Colleges

We reached out to RHPA colleges not currently in the Pilot to canvass interest in the Pilot and their needs and held multiple meetings with senior staff. There is considerable interest in the possibility of joining, and the most common preference is to have the HPDT take on the administration and case processing as well as sharing adjudicative resources.

Some Colleges have a very low volume of discipline proceedings, which can be as infrequent as one case every two or three years. These Colleges have a different set of needs from larger ones. Rather than orienting all committee members and providing them regular education, their preference would be to have an infrastructure in place to take on the processing and management of cases, as well as the training of adjudicators when a referral is made and the need arises.

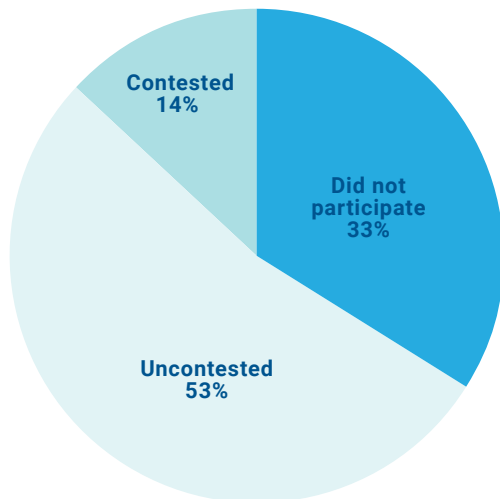


QUANTITATIVE MEASURES

Total of 30 hearings have been held

General

From the start of the HPDT Pilot to the end of June 2024, a total of 30 hearings have been held. Of these, 16 hearings, 53% were uncontested, where the merits, penalty, and costs were agreed to by the parties. In 10 (33%) of the cases, the registrant did not participate. In contrast, four hearings (14%) were contested, with the parties disagreeing on some or all issues, typically resulting in longer hearings.



Fifteen cases involving allegations of sexual abuse were completed: 11 at CMTO and four at CRPO.

Contested hearings made up less than one sixth of Pilot hearings but accounted for just over 40% of total hearing days.

Breakdown of Hearings by College

Agreement level	CASLPO	CRPO	CMTO	Total
Contested	0	2	2	4
Uncontested	2	9	5	16
Not participating	3	2	5	10
Total	5	13	12	30

All four contested cases involved sexual abuse allegations

Hearing Length

Six multi-day hearings have been held, four of which were contested. In the other two, the registrant did not participate in the hearing. The lengthiest contested hearing, in a CMTO case, was scheduled for five days but was completed in four-and-a-half days, covering both merits and penalty hearing days.

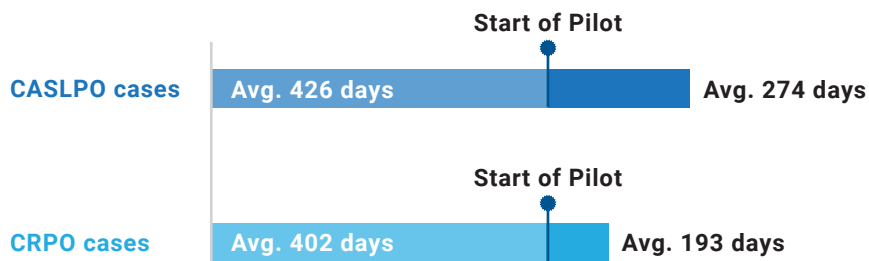
Nineteen cases were heard over a single or half day, all of which were uncontested or the registrant did not participate. There were five written hearings; in four of these, the registrant did not participate, and one involved an uncontested motion to withdraw allegations.



Timeliness

Cases Referred Before the Start of the Pilot

At CRPO, seven cases had been pending for an average of 402 days at the time the Pilot began. They were subsequently completed within an average of 193 days from the start of the Pilot.



At CASLPO, four cases had been pending for an average of 426 days. These cases were completed within an average of 274 days from the start of the Pilot. Two of these cases were case managed together with one other case involving the same registrant referred after the Pilot.

Cases Referred During the Pilot

Cases that were both opened and completed after the start of the Pilot were completed on average 201 days from the date of the notice of hearing.

At CRPO, six cases that were opened after the Pilot began were completed in an average of 200 days.

At CMTO, four cases that were opened after the start of the Pilot were completed in an average of 204 days.

At CASLPO, we have yet to complete a case that was opened after the start of the Pilot.



On average, Pilot cases have closed within 201 days.

Decision Release

Overall, there have been 40 decisions released during the Pilot: 16 for CMTO, 9 for CASLPO and 15 for CRPO .

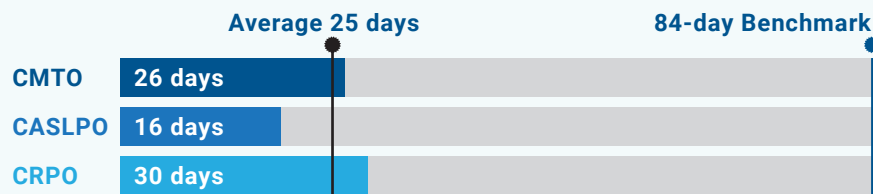
40 decisions released during the Pilot



In the Pilot, decisions have been released within an average of 25 days following the conclusion of a hearing, significantly outperforming the 84-day benchmark.

Average Days to Decision Release

There were four merits reasons released for cases that were contested. These reasons were released in an average of 59 days. There were ten reasons released in cases where the registrant did not participate. These reasons were released in an average of 27 days. There were 19 reasons released in uncontested cases. They were released in an average of 25 days.



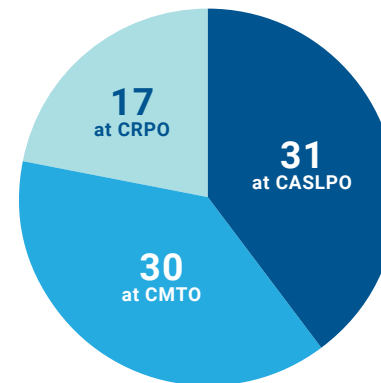
There were seven motion reasons released during the Pilot and their average time to release was six days. Of these there were five uncontested motion reasons released within an average of five days. The remaining two were contested motions and their reasons were released within an average of nine days.

Case Management

The Pilot incorporates a comprehensive case management rule designed to streamline the hearing process in a manner that is fair, timely, and aligned with the public interest. This approach ensures that hearing time is utilized efficiently and effectively, procedural and legal issues are identified early and adjournments are reserved for exceptional circumstances only.

Throughout the Pilot, 78 CMCs have been conducted across all Pilot Colleges: 31 at CASLPO, 30 at CMTO, and 17 at CRPO. On average, there were 2.43 CMCs per contested case and 1.78 CMCs per uncontested case. The higher number of CMCs per contested case reflects the greater complexity often associated with these matters, requiring more preliminary management to ensure efficient proceedings.

78 CMCs have been conducted across all Pilot Colleges



The higher number of CMCs per contested case reflects the greater complexity often associated with these matters.



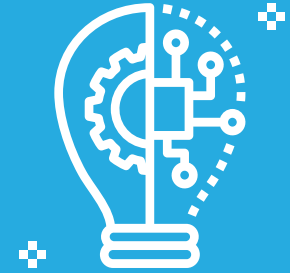
Financial Impact

The impact of the new model on each College will be different, so it is difficult to generalize. Factors that will affect cost and cost comparisons with the previous model include:

- caseload;
- types of cases;
- settlement rates;
- discipline committee size;
- remuneration rates paid to professional members;
- staff resources devoted to discipline;
- current ILC hourly rates;
- current approach to reason writing;
- frequency and nature of education.

To give a sense of HPDT costs, we have summarized the number of adjudicator hours spent for various Pilot cases with a description of the nature of the case.

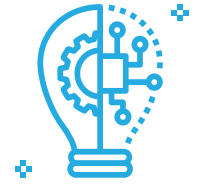
Hours Spent by Case Type		CMC Hours	Hearing Hours (including preparation and deliberation)	Reason Writing Hours	Total
Joint submission through CMC process	Example 1	5.7	2.50	1.50	9.70
	Example 2	4.00	2.75	3.50	10.25
Written hearing; registrant not participating; complex legal issues		1.00	11.20	15.70	27.90
Contested sexual abuse; registrant represented	Example 1	2.00	27.20	23.70	52.90
	Example 2	1.50	37.00	40.00	28.50
Contested sexual abuse; registrant self-represented		3.00	30.50	14.70	48.20
Consent withdrawal; single adjudicator; in writing		0.00	0.00	1.50	1.50
Indefinite Adjournment after CMCs; single adjudicator		1.00	1.25	0.75	3.00



Part 3

New Model

New Model



PRINCIPLES

This part sets out the model we are proposing be adopted should Pilot Colleges decide to continue or other Colleges choose to join.

The following principles were applied in the design:

- The model has been very well-received and few changes are needed to the overall structure.
- The success of the model has come from the combination of all its elements, most importantly case management, the change in panel composition, enhanced education and modernized adjudicative and administrative processes.
- It is important for each profession's tribunal to maintain its separate identity and jurisprudence and provide opportunities for separate interactions and education.
- Consistency in processes, rules, templates and IT is important for many reasons, including:
 - smoother hearings and reasons through consistent approaches, in particular if the number of Colleges participating grows;
 - consistent approaches and reduced costs for representatives who appear before multiple tribunals;
 - the ability to prepare extensive documentation and support for self-represented and represented litigants that apply to all the participating tribunals;
 - reduced administrative and adjudicative costs and time;
 - changes to ensure continuous improvement are more easily made;
 - consistent fees and fair cost sharing.
- In limited circumstances there may be differences between Colleges in processes, rules and templates including:
 - on costs tariffs, which are a policy question, and do not require changes to adjudicative processes;
 - to respond to differences that relate to the nature of the profession;
 - during transition and to allow a trial period.
- Independence, and therefore the confidence of the public and registrants, is promoted by separation between the College, in particular the professional conduct staff and prosecution counsel, and the discipline tribunal.

The success of the model has come from the combination of all its elements, most importantly case management, the change in panel composition, enhanced education and modernized adjudicative and administrative processes.



PROPOSAL FOR THE HPDT

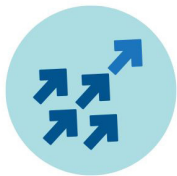


Identity

The Discipline Committee of each participating College is renamed the Ontario [name of profession] Discipline Tribunal by Board By-Law. The group of tribunals together is known as the Health Professions Discipline Tribunals. Decisions and orders have the HPDT logo at the top, followed by the name of the discipline tribunal. Each discipline tribunal has a separate section on the Canadian Legal Information Institute (CanLII) and other legal reporting services.

Correspondence and emails to and from HPDT Tribunals use a central email address and HPDT branding.

The HPDT website contains an “About Us” section with general information about the HPDT, a “Scheduled Hearings” section with all scheduled dates, which can be sorted by College, a “resources” section similar to that already built and a “contact” section. Discipline tribunals or Colleges will likely wish to maintain their own web pages for information such as cases currently referred, outcomes and a list and/or biographies of discipline tribunal members.



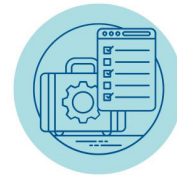
Tribunal Membership and Leadership

Pursuant to the Code, each College’s Board appoints the members and leaders of its discipline tribunal. Unless there is a conflict of interest, all experienced adjudicators are appointed to all HPDT Tribunals. The HPDT Chair is appointed Chair of each HPDT Tribunal and a professional or public member of the discipline tribunal is selected as Vice-Chair. The Chair meets with each Vice-Chair as needed and there are regular meetings of all Vice-Chairs. Particularly with smaller Colleges, the Chair will make efforts to have a smaller group of the experienced adjudicators chair hearings in each HPDT Tribunal.



Rules of Procedure, Practice Directions and Guides

Each HPDT Tribunal adopts the HPDT Rules of Procedure, Practice Directions and Guides. Where agreed by HPDT and the relevant College, Appendix A to the Rules of Procedure allows for rules that apply to one tribunal and a Practice Direction specific to that College can be prepared. Each College determines whether there will be a costs tariff and the amounts.



Case Processing and Administration

Participating Colleges have the option to decide whether they wish to have Tribunal Office staff conduct case processing using common templates and procedures or whether they will continue to do so themselves. Both of the options presented require individual Colleges to provide staffing support, the amount of which will depend on their volumes. There is much less College staff time required with the first option.

Tribunal Office Processes Cases

Where the Tribunal Office does case processing, it is responsible for all file administration from the filing of the Notice of Hearing until the file is closed, including all correspondence, scheduling, canvassing panel members for their availability, maintaining the file, tracking, editing and releasing reasons and preparing the file for storage. Further, the Chair and Tribunal Counsel leverage their legal expertise to advise Tribunal Office staff on file management issues that arise throughout the duration of a case file.



The College remains responsible for:

- advising the Tribunal Office of conflicts of interest of tribunal members;
- all updates to the public register;
- all updates to the College’s website;
- all reports, including statistical updates, reports to the Board and the College’s annual report;
- supporting business or education meetings of the individual tribunal;
- file retention;
- remuneration and reimbursement of professional members and administration of public members’ remuneration claims with the Health Boards Secretariat.

The College appoints a staff member or members outside the professional conduct department as the liaison with the Tribunal Office. The liaison advises the Tribunal Office of all changes to tribunal membership.

Tribunal Office staff and experienced adjudicators use CPSO systems, and members of the other tribunals are given access to documents using SharePoint. Data access and sharing with discipline tribunal members is conducted in accordance with the agreed-upon data protocol.

College Processes Cases

Where the College processes its own cases, it uses the same templates and processes, email address and databases as the Tribunal Office. Tribunal Office staff provide training to the College’s staff on the processes. The HPDT Chair has ultimate responsibility and decision making in relation to case processing and may be consulted by College leadership on the performance of staff working on discipline cases.



Hearing Support

HPDT tribunals are encouraged to use FCCF to support hearings. Where the Tribunal Office is doing administration and file processing, the Tribunal Office makes all relevant arrangements, pays FCCF invoices and invoices the College. When using FCCF, hearings are recorded and there is no need for a court reporter to attend the hearing; the recording is sent if the transcript is ordered.



Education

The HPDT organizes an annual education conference. There is a registration fee to cover the expenses. In consultation with the Vice-Chair, the HPDT organizes up to one full-day or two half-day virtual business/education meetings.

The HPDT provides a combined orientation (four half days) for new discipline tribunal members in all HPDT Colleges. In general, the orientation takes place twice annually. If a member is needed to sit on a hearing before the next orientation, they watch the video of the last training and are invited to an individual question and answer session with the HPDT Chair or Tribunal Counsel.

The HPDT continues to produce the monthly newsletter.

Colleges provide an orientation to the profession for the experienced adjudicators when joining the HPDT and for new experienced adjudicators. The HPDT provides up to a one-day orientation to the HPDT for discipline tribunal members when the College joins the HPDT.



Finances

The financial arrangements continue as in the Pilot. Colleges are only billed for adjudicator time (including time attending College-specific meetings), base fee, reimbursement of expenses incurred on their behalf (such as hearing support) and expense sharing for the conference. Colleges are not charged separately for preparation of education, organizing the conference, the newsletter, case processing, reasons review and editing, etc. The Tribunal Office continues to track the time spent on all other activities to ensure that the program is cost neutral for CPSO.

The 2025 base fee will remain unchanged at \$1,000 per month per College, except that for Colleges with an average of two hearings or less per year over the past five years, it will be \$750. The hourly rates will be \$350 per hour if the Tribunal Office staff are doing case processing and \$300 per hour if the College is doing its own case processing. If more Colleges participate, that will allow for steady or perhaps reduced base fees as base costs can be spread between all participating Colleges. While in the future it may be appropriate to set fees for a longer period, at the outset fees should be reviewed and agreements should be signed on an annual basis.

Smaller Colleges

Colleges that have had an average of less than one hearing per year over the past five years, and that do not wish to regularly participate in education will pay a base fee of \$150 per month (billed on an annual basis) during any period in which they have no active cases. If there is a referral, the HPDT will provide focused training tied to the nature of the case and regular fees will apply during the period the case is active.

Reporting, Feedback and Evaluation

There will continue to be regular meetings of all the participating Colleges and the HPDT. The HPDT-Counsel Roundtable will continue and be expanded as appropriate to include new members.

There are various issues and decisions that may need to be considered in coming years. How these are approached will depend on various factors, including the number of Colleges that join, volume of cases, our experiences under the new model and changes in the sector. These may include:

- the process for selecting the HPDT Chair;
- whether full-time experienced adjudicators in addition to the HPDT Chair should be recruited;
- the possibility of statutory and/or regulatory changes to promote effectiveness and efficiency, including to the requirement for Board members on discipline panels, methods for appointing public members and the size of panels;
- HPDT office location and financial structure;
- the duration of agreements and appointments;
- mechanisms for determining future structure and independence; and
- continuous improvement and strategic planning.

Commencing in 2026 for the year 2025, the HPDT will prepare an annual report of its activities. The HPDT will establish annual performance metrics in consultation with all participating Colleges to be reported on in the next year's annual report.

In the first half of 2028, we will consult participants from the regulatory community and prepare a report on the first three years of the HPDT and possible improvements to all aspects of the model, including the structure and the Rules of Procedure.

Timing of New Participants and Transition

We are open to new Colleges participating at any time after January 2025. Transition, and any special arrangements during a trial period, can be discussed individually.

Fitness to Practise

The HPDT is able to take on fitness to practise cases. Rules and processes for fitness to practise cases will be developed as needed.

HPDT Health Professions
Discipline Tribunals



TDPS Tribunaux de discipline
des professions de la santé

tribunal@opsdt.ca

Amended January 2024
Originally Issued September 1994

Bylaws

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DRAFT

Official Bylaws of the College of Occupational Therapists of Ontario

Revised June 27, 2018

All previous bylaws relating to the administration of the affairs of the College are hereby repealed and replaced with this bylaw.

Part 1: Definitions and Application

1.01 Definitions

The following definitions shall apply to all parts of these bylaws unless otherwise defined or required by the context:

Annual Fee

Means the fee payable for the annual renewal of a certificate of registration of any class.

Act

Means the *Occupational Therapy Act* (1991, S.O. 1991) and the regulations thereunder.

Adjudicator Appointees

Means an individual with expertise in conducting formal legal hearings appointed by the Board to serve on the Discipline and Fitness to Practise Committee.

Board or Board of Directors

Means the Council of the College within the meaning of section 1(1) of the Code and section 5 of the Act.

Bylaws

Means the bylaws of the College.

Chair

Means the Chair of the Board of Directors of the College.

CLEAR

Means Council on Licensure, Enforcement and Regulation

Code

Means the *Health Professions Procedural Code* being Schedule 2 to the RHPA.

College

Means the College of Occupational Therapists of Ontario.

Committee

Means a committee of the College and includes statutory committees established under section 10 of the Code, standing committees, task forces, a Panel of a Committee and any other committee established by the Board under these bylaws.

Community Appointee

Means an individual appointed to serve as a member of a Committee who is neither a Director nor a Registrant.

Director

Means an individual elected or appointed to be a member of the Board of Directors of the College.

Elected Director

Means a registrant elected to the Board in accordance with the bylaws and includes a Registrant elected in a by-election or appointed to fill a vacancy.

Informal Disposition or Resolution

Means a negotiated or imposed conclusion to a concern about a Registrant that involves either one or both of the following:

- a. an obligation to complete measures for enhancement (e.g., an acknowledgement and undertaking, requirement to participate in a remediation program) or
- b. educational action (e.g., a caution, an admonishment, an opportunity to correct any deficiencies and to enhance their knowledge, skills and judgment)

For greater clarity, an informal disposition or resolution does not include a simple reminder, guidance or advice.

Professional Committee Appointee

Means a Registrant of the College who is not a member of the Board, who has been appointed to a Committee

Public Director

Means a person appointed by the Lieutenant Governor in Council as described in section 5(1)(b) of the Act;

Register

Means the person appointed by the Board as Registrar or Interim Registrar of the College, in the case of the absence or inability of the Registrar or Interim Registrar, the Deputy Registrar.

Registrant

Means a member of the College.

Registrar

Means the person appointed by the Board as Registrar or Interim Registrar of the College.

Registration Fee

Means the fee for the issuance of a certificate of registration of any class.

RHPA

Means the *Regulated Health Professions Act, 1991*, S.O. 1991, c. 18.

Regulations

Means the regulations made under the Act.

Schedule I Banks

Under the *Canadian Bank Act*, Schedule I are banks that are not a subsidiary of a foreign bank, i.e., domestic banks, even if they have foreign shareholders. They are authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canadian Deposit Insurance Corporation.

Schedule II Banks

These are foreign bank subsidiaries authorized under the *Bank Act* to accept deposits, which may be eligible for deposit insurance provided by the Canada Deposit and Insurance Corporation. Foreign bank subsidiaries are controlled by eligible foreign institutions.

Vice-Chair

Means the Vice-Chair of the Board of Directors of the College.

1.02 Changes of Number

These bylaws are to be read with all changes of number required by the context.

1.03 Headings for Reference Only

The headings in these bylaws are for ease of reference only and shall not affect in any way the meaning or interpretation of these bylaws.

Part 2: Head Office

Repealed - effective October 28, 2021

Part 3: Financial Matters

3.01 Fiscal Year

3.01.1 The fiscal year of the College shall be from June 1st to May 31st in the next calendar year.

3.02 Signing Authorities

The College shall have at least three persons authorized annually by the Board to sign contracts, documents, cheques or any instruments in writing requiring the signature of authorized officers of the College. Two of the three authorized signing authorities will be the Chair and the Registrar.

3.03 Banking

- 3.03.1** All money belonging to the College shall be deposited in the name of the College with one or more banks (which shall be a Schedule 1 or Schedule 2 bank under the *Bank Act*).
- 3.03.2** The Registrar may endorse any cheque or other negotiable instrument for collection on the College's account through the bank or for deposit to the credit of the College with the bank, in accordance with any applicable policy of the College.

3.04 Investment Funds

All monies belonging to the College may only be deposited or invested according to the Investments policy, and in one or more of the following:

- 3.04.1** A bank or trust company or brokerage house.
- 3.04.2** Securities of the Government of Canada, the Government of any Province of Canada, or any municipal corporation in any Province of Canada.
- 3.04.3** Securities, the payment of principal and interest of which is guaranteed by the Government of Canada, or the Government of a Province of Canada.

3.05 Execution of Deeds, Mortgages and Real Property Leases

3.05.1 Deeds, mortgages and real property leases requiring the signature of the College shall be signed by the Chair or the Vice-Chair together with the Registrar and shall be binding upon the College without any further authorization or formality. The Board may by resolution appoint any officer or officers or any person or persons on behalf of the College either to sign deeds, mortgages and real property leases.

3.05.1.1 Subject to section 3.05.1, all cheques and contracts may be signed by the Registrar alone in compliance with policies approved by the Board from time to time.

3.05.2 Except where otherwise provided by law, the Registrar may sign summonses, notices and orders on behalf of any committee of the College.

3.05.3 The seal of the College shall, when required, be affixed to contracts, documents, or instruments in writing, signed as aforesaid, or by any other person or persons appointed as authorized to sign on behalf of the Board.

The seal of the College is the seal depicted below.



3.05.4 The Registrar, or such other officer or officers or person or persons as may, from time to time be authorized by resolution of the Board, are authorized to sell, assign, transfer, charge, convert, or convey any and all shares, bonds, debentures, rights, warrants, or other securities owned by or registered in the name of the College and to sign and execute all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the foregoing purposes in compliance with policies approved by the Board from time to time.

3.06 Retain Valuable Documents

3.06.1 The Registrar shall at all times keep and maintain for the benefit of the College copies of all contracts, agreements, certificates, approvals and all other documents to which the College is a party or which are otherwise pertinent to the administrative and domestic affairs of the College.

3.07 Accounts

The Board shall cause proper books of account to be kept in respect of all sums of money received and expended by the College which shall, unless the Board otherwise decides, be the responsibility of the Registrar.

3.08 Financial Records

Financial statements for the College shall be prepared promptly at the close of each fiscal year. The audited financial statements of the College, together with a signed and certified copy of the Auditor's report, shall be:

- a. reviewed by the Finance, and Audit Committee;
- b. presented annually to the Board;
- c. provided to the Minister of Health; and
- d. made available to the public in the College's annual report.

3.09 Auditor

The Board shall appoint a licensed public accountant as auditor of the College at least every fifth year for a term not exceeding five years.

3.09.1 Audit

The auditor shall make such examinations as will enable them to report to the Board as required by law and under these bylaws. Without limiting the generality of the foregoing, the auditor shall report to the Finance, and Audit Committee before the Board meeting at which the financial statements of the College are to be submitted. The auditor of the College shall report in writing to the Board at the meeting at which the financial statements of the College are to be submitted and shall state in the report whether, in their opinion, the financial statements present fairly the financial position of the College and the results of its operations for the period under review in accordance with Canadian accounting standards for not-for-profit organizations.

3.10 Borrowing Funds

The Chair or Vice-Chair, together with the Registrar and such other officer or person as may be authorized by resolution of the Board may:

- a. borrow money upon the credit of the College;
- b. issue, sell, or pledge debt obligations of the College, including without limitation bonds, debentures, notes, or similar obligations of the College, whether secured or unsecured; and
- c. charge, mortgage, hypothecate, or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the College, including book debts, rights, powers, franchises and undertakings, to secure any such debt obligations or any money borrowed, or other debt or liability of the College.

Part 4: Indemnity

4.01 Indemnity

Every Director, Committee member, officer, employee or appointee of the College, including assessors, investigators and inspectors, and each of their heirs, executors, administrators and estate, respectively, shall from time to time and at all times be indemnified and saved harmless out of the funds of the College from and against:

- (i) all costs, charges, expenses, awards and damages whatsoever that they sustain or incur in any action, suit or proceeding that is brought, commenced or prosecuted against them in respect of any act, deed, matter or thing whatsoever made, done or permitted by them in or about the execution of the duties of their office; and
- (ii) all other reasonable costs, charges, expenses, awards and damages that they sustain or incur in or about or in relation to the affairs of the College; except such costs, charges, expenses, awards and damages as are occasioned by their own willful neglect or default. Where the person is a commercial service provider (e.g., a private investigator hired to conduct an investigation), the College has discretion as to whether or not to provide indemnity.

Part 5: Election of Board Members

5.01 Electoral Districts

5.01.1 Prior to March 30, 2023, the following electoral districts were established for the purpose of the election of members to the Board:

- a. Electoral district 1 (Central East) composed of the Municipality of Toronto, the counties of Haliburton, Northumberland, Peterborough, Simcoe and Kawartha Lakes, and the regional municipalities of Durham, Peel and York.
- b. Electoral district 2 (Central West) composed of the counties of Brant, Dufferin and Wellington, and the regional municipalities of Haldimand, Norfolk, Halton, Hamilton, Niagara and Waterloo.
- c. Electoral district 3 (South West) composed of the counties of Essex, Bruce, Grey, Chatham- Kent, Lambton, Elgin, Middlesex, Oxford, Huron and Perth.
- d. Electoral district 4 (Eastern) composed of the united counties of Prescott and Russell, Stormont, Dundas & Glengarry, Lennox & Addington, Leeds & Grenville, the Municipality of Ottawa, the counties of Hastings, Prince Edward, Frontenac, Renfrew and Lanark.
- e. Electoral district 5 (North East) composed of the districts of Sudbury, Parry Sound, Timiskaming, Nipissing, Algoma, Cochrane and Manitoulin and

Muskoka.

- f. Electoral district 6 (North West) composed of the territorial districts of Kenora, Rainy River and Thunder Bay.

5.01.2 As of March 30, 2023, the following electoral districts are established for the purpose of the election of members to the Board:

- a. Electoral district 1 (Central District) composed of Toronto and Peel;
- b. Electoral district 2 (Central West District) composed of Bruce, Grey Elgin, Essex, Huron, Chatham-Kent, Lambton, Middlesex, Oxford, Perth, Brant, Wellington, Dufferin, Haldimand, Norfolk, Hamilton, Halton, Niagara and Waterloo, and the Territorial Districts of Rainy River, Thunder Bay, Kenora, Algoma, Sudbury and Manitoulin;
- c. Electoral district 3 (Central East District) composed of York, Durham, Ottawa, Simcoe, Northumberland, Peterborough, Prince Edward, Kawartha Lakes, Haliburton, Stormont, Dundas and Glengarry, Prescott and Russell, Renfrew, Hastings, Frontenac, Lennox and Addington, Lanark, and Leeds and Grenville, and the Territorial Districts of Cochrane, Muskoka, Parry Sound, Nipissing and Timiskaming.

5.01.3 After the elimination of one or more districts set out in 5.01.1 any affected incumbent Elected Board Director shall retain their seat on the Board until the earlier of:

- a. The date the Elected Board Director resigns;
- b. The original date of expiry of the term that the Elected Board Director was serving at the time the district was eliminated; or
- c. The Elected Board Director is nominated to run for election in the new district to which they are assigned, at which point they shall be deemed to have resigned from the district to which they were first elected.

5.01.4 The electoral district in which a Registrant is eligible to vote is the district in which, on the date of the election, the Registrant principally practises, or if the Registrant is not engaged in the practise of occupational therapy, is the district in which, on that day, the Registrant principally resides.

5.01.5 Subject to 5.01.2, a Registrant is entitled to vote in an election if the Registrant holds a valid general practising or provisional practising certificate of registration.

5.01.6 The number of Registrants to be elected in an electoral district is as follows:

- a. Electoral district 1, 2 Registrants
- b. Electoral district 2, 2 Registrants
- c. Electoral district 3, 2 Registrant per district

5.02 Year of Elections

5.02.1 An election of Directors to the Board shall be held in 2026 and in every third year after that for electoral district 2.

5.02.2 An election of Directors to the Board and shall be held in 2024 and in every third year after that for electoral district 3.

- 5.02.3** An election of Directors to the Board shall be held in 2025 and in every third year after that for electoral district 1.

5.03 Eligibility for Election

- 5.03.1** A Registrant is eligible for election to the Board in an electoral district if, on the date of the deadline for nomination:
- a. they are entitled to vote in an election in accordance with Bylaw 5.01.4 and 5.01.5;
 - b. they are not in default of payment of any fees required under these bylaws;
 - c. they have completed the College's pre-election orientation program within three months preceding the deadline for the receipt of nominations ;
 - d. the registrant has been determined by the Nominations Committee to meet the pre-election competencies as may be established by the Board from time to time;
 - e. they are not the subject of any disciplinary or incapacity proceedings by a body that governs a profession, inside or outside Ontario;
 - f. their certificate of registration has not been revoked or suspended, inside or outside of Ontario in the six years preceding the date of nomination as a result of a professional misconduct, incompetence or incapacity proceeding;
 - g. their certificate of registration is not subject to any order, direction, or term, condition, or limitation imposed by a panel of the Discipline Committee, Fitness to Practise Committee or Quality Assurance Committee or by a similar committee of a body that governs a profession, inside or outside of Ontario;
 - h. a period of at least six years has elapsed since they complied with all aspects of any order imposed by a Discipline or Fitness to Practice Committee or by a similar committee of a body that governs a profession, inside or outside of Ontario;
 - i. they have not been disqualified from the Board or a Committee in accordance with the bylaws in the six years preceding the date of nomination;
 - j. they are not at present nor have been at any time within the three years preceding the date of nomination, a director, owner, board member, officer, or employee of any national or provincial association or organization that advances the interests of occupational therapists;
 - k. they have not resigned from the Board in the three years preceding the date of nomination;
 - l. they do not have a conflict of interest to serve as a Board Director or has agreed to remove any such conflicts of interest before taking office.
 - m. a court or other lawful authority (unless it has been reversed on appeal or judicial review) has not made a finding of guilt against them in respect of:
 - i. a criminal offence;
 - ii. any offence relating to the prescribing, compounding, dispensing, selling, or administering of drugs; or
 - iii. any offence relevant to the Registrant's suitability to practise occupational therapy;
 - n. they are not subject to 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;

- o. they have not initiated, joined, continued, or materially contributed to a legal proceeding against the College or any Committee or representative of the College; and,
- p. they have not been an employee or paid consultant of the College in the six years preceding the date of nomination.

5.04 Terms of Office

- 5.04.1** The term of office of an Elected Director to the Board is three years, commencing with the Board meeting where the election of officers takes place.
- 5.04.2** An Elected Director who has served on Board for more than nine consecutive years is not eligible for election until at least three years have passed since the Director last served on the Board.

5.05 Nomination

- 5.05.1** The Registrar shall supervise the nomination of candidates including determining the eligibility for election of a nominated candidate.
- 5.05.2** No later than 60 days before the date of an election, the Registrar shall notify every Registrant who is eligible to vote, of the date, time, and place of the election and of the nomination procedure.
- 5.05.3** The nomination of a candidate for election as a Director of the Board shall be in writing and shall be submitted by the candidate to the Registrar at least 30 days before the election.
- 5.05.4** A candidate for election as a Director of the Board shall be nominated by at least three Registrants who support the nomination and who are eligible to vote in the electoral district in which the election is to be held.
- 5.05.5** A candidate shall sign the nominations form accepting the nomination, and complete and return the confirmation of eligibility, conflict of interest questionnaire, and proof of completion of the pre-election orientation program in the form provided by the Registrar and by the deadline set by the Registrar.
- 5.05.6** The Registrar shall review the nomination form and other information submitted by the candidate. All candidates who are deemed by the Registrar to meet the eligibility criteria set out in 5.03.1, other than 5.03.1(d), shall be required to participate in an interview conducted by the Nominations Committee. The interview may be conducted in person, by telephone, or by other electronic means.
- 5.05.7** The decision as to whether a candidate meets the pre-election competencies with the meaning of 5.03.1(d) is within the sole discretion of the Nominations Committee. The Nominations Committee's decision is final and not subject to challenge.
- 5.05.8** A candidate may withdraw their nomination for election to the Board by notifying the Registrar in writing at least 20 days before the election.

5.06 Acclamation

- 5.06.1** If the number of candidates nominated in an electoral district is less than or equal to the number of Registrants to be elected in the electoral district, the Registrar shall declare the candidates to be elected by acclamation.

5.07 Additional Calls for Nominations

- 5.07.1** If there are no candidates or an insufficient number of candidates in an electoral district who are eligible for election, there shall be additional calls for nominations, as required, throughout the nomination period.
- 5.07.2** If additional calls for nominations during the nomination period do not secure a sufficient number of eligible candidates, the Nominations Committee may recommend one or more Registrants who are eligible for election to the Board.
- 5.07.3** A person who consents to a nomination or recommendation by the Nominations Committee shall be deemed to be a validly nominated candidate when the nomination or recommendation is received by the Registrar.

5.08 Voting Procedure

- 5.08.1** Except for an election in which the Registrar has declared a candidate elected to the Board by acclamation, the Registrar shall, at least 15 days before the date of an election, send every Registrant entitled to vote in an electoral district in which an election is to take place:
- a. a list of eligible candidates;
 - b. the means to cast a vote;
 - c. instructions for voting; and
 - d. biographical information about each candidate.

5.09 Voting

- 5.09.1** A Registrant may cast as many votes in an election of Directors of the Board as there are Directors to be elected to the Board from the electoral district in which the Registrant is eligible to vote.
- 5.09.2** A Registrant shall not cast more than one vote for any one candidate.
- 5.09.3** Votes must be received in the manner specified at or before the date and time specified for the election in order to be counted.

5.10 Exceptional Circumstances

- 5.10.1** In exceptional circumstances, the Registrar may modify any time period respecting elections as the Registrar considers necessary to compensate for the exceptional circumstances.

5.11 Administration

- 5.11.1** The Registrar shall be the Chief Returning Officer and shall supervise and administer the election of candidates and, for the purpose of carrying out that duty the Registrar may, subject to these bylaws:
- a. appoint returning officers and scrutineers;
 - b. establish procedures and any necessary deadlines including procedures and deadlines relating to the receiving of nominations, biographies and personal statements and for the receiving of votes;
 - c. establish procedures for the tabulation of votes;
 - d. provide for the notification of all candidates and Registrants of the results of the election;
 - e. provide for the destruction of voting information following an election; and
 - f. do anything else that the Registrar deems necessary and appropriate to ensure that the election is fair and effective.
- 5.11.2** If a returning officer or scrutineer refuses to act or to continue to act or is impaired in the opinion of the Registrar, the Registrar shall appoint another person as a returning officer or scrutineer.
- 5.11.3** The returning officers and scrutineers shall honestly and accurately report the vote count in each election, record the results of each count and thereby determine the result of each election.
- 5.11.4** Subject to these bylaws, all questions arising in the tabulation of votes, the recording of results or the determination of the result shall be decided by a majority of the returning officers or scrutineers as appropriate.

5.12 Tie Vote

- 5.12.1** If two or more candidates receive the same number of votes in an election, the Registrar shall break the tie by lot.

5.13 Results

- 5.13.1** As soon as practicable after the votes have been tabulated, the Registrar shall:
- a. advise each eligible candidate of the results of the election, the number of votes they received and the candidate's right to request a recount in accordance with article 5.14; and
 - b. advise the Registrants and the Board of the results of the election.

5.14 Recounts

- 5.14.1** A candidate may require a recount by giving a written request to the Registrar no more than 15 days after the date of the election and paying the fee of \$300.00 to the College seven days prior to the recount. This fee will be refunded if the recount changes the outcome of the election.
- 5.14.2** The Registrar shall hold the recount no more than 15 days after receiving the request and the recount shall be conducted in as transparent a manner as the voting system reasonably permits.
- 5.14.3** If a candidate requests a recount, the Registrar shall preside over the recount, and

shall:

- a. appoint scrutineers;
- b. arrange for the recount within 15 days from the receipt of the request;
- c. notify all candidates in the election of the fact and date of the recount;
- d. if two candidates receive an equal number of votes, the Registrar shall break the tie by lot; and
- e. declare the candidate who received the most votes to be elected to the Board for the pertinent electoral district.

5.15 Referral of Disputes to Governance Committee

- 5.15.1** If the Governance Committee is of the opinion that there are reasonable grounds to doubt or dispute the validity of the election of any member of the Board it shall initiate an inquiry.

5.16 Report and Recommendation of Governance Committee

- 5.16.1** Where the Governance Committee initiates an inquiry under article 5.15 into the validity of the election of the Board of Director in question and, following the inquiry, shall make a report and recommendation to the Board.

5.17 Options Available to the Board

- 5.17.1** The Board may, after reviewing the report and recommendation of the Governance Committee and subject to article 5.14, do one of the following:
- i. declare the election result in question to be valid; or
 - ii. declare the election result in question to be invalid; and either
 - a. declare another candidate to have been elected; or
 - b. direct that another election be held.

5.18 Minor Irregularities Not Fatal

- 5.18.1** The Board shall not declare an election result to be invalid solely on the basis of a minor irregularity regarding the requirements of these bylaws or a procedure established by the Registrar.

Part 6: Academic Appointments to the Board

6.01 Academic Appointments

- 6.01.1** One or two Academic appointee(s), at least one of whom will hold a full-time faculty appointment, shall be appointed by the Board to sit on the Board as an academic appointment.
- 6.01.2** The Registrar shall consult with and obtain recommendations from the Program Directors or Chairs of approved Ontario universities that offer occupational therapy programs, no later than 90 days before the date the appointment takes effect.
- 6.01.3** The Nominations Committee shall receive all recommendations and make such

enquiries as it deems appropriate, before making a recommendation to the Board.

- 6.01.4** For the purposes of clause 5(1) (c) of the *Act*, a Registrant is eligible for an Academic appointment to the Board if, on the date of the appointment they meet the requirements in clauses (c) through (o) of Bylaw 5.03.1 and:
- a they have a faculty appointment in an occupational therapy program in Ontario approved by the College of Occupational Therapists of Ontario;

6.02 Term of Office of Academic Appointment

- 6.02.1** The term of office for an Academic appointment shall be three years.
- 6.02.2** An appointee who has served on the Board for more than nine consecutive years is not eligible for re-appointment until at least three years have passed since the Registrant has last served on the Board.

Part 7: Officers

7.01 Election of Officers

- 7.01.1** The Registrar or their designate shall conduct the election of Officers at the first meeting of a new Board.
- 7.01.2** The election of the Chair, Vice-Chair, and remaining Executive Committee positions shall be by secret ballot.
- 7.01.3** The Registrar or their designate shall, with the concurrence of the Board, appoint three scrutineers to count the ballots and report the results to the Board.
- 7.01.4** If there are more than two candidates in an election, successive ballots shall be conducted until one candidate receives a majority of the votes cast. The candidate or candidates who receive the fewest votes in a ballot shall be dropped in the next ballot.
- 7.01.5** In the case of a tie, one scrutineer will be directed to cast a deciding vote by lot.
- 7.01.6** At the conclusion of the full election of officers the newly elected Chair will preside over the remainder of the meeting.
- 7.01.7** The term of office for the officers shall be one year.
- 7.01.8** The Chair or Vice-Chair may be removed from office by a two-thirds vote of the Board and the Board shall elect a new Chair from its members to hold office for the remainder of the year.
- 7.01.9** In the event an officer resigns, dies, or otherwise ceases to act, the Board shall elect a new officer from among its members to hold office for the remainder of the year.

7.02 Chair of the Board

7.02.1 The Chair of the Board shall perform all duties and responsibilities which include the responsibilities set by policy and such other duties that the Board of Directors from time-to-time assigns.

7.03 Vice-Chair of the Board

7.03.1 The Vice-Chair of the Board will act and has all the powers and duties of the Chair of the Board if the Chair of the Board is absent or is unable or refuses to act, and will perform the responsibilities set by policy and such other duties that the Board of Directors from time to time assigns.

7.04 Appointment of Committee Chairs

7.04.1 The Nominations Committee shall recommend to the Board for approval Committee Chairs annually, at their first meeting after the election of officers.

7.04.2 The term of office for a statutory committee Chair is one year. The maximum amount of time a person can chair a committee is three years, whether served consecutively or not.

7.04.3 In the event a statutory committee Chair resigns, dies or otherwise ceases to act, the Board shall appoint a new statutory committee Chair to hold office for the remainder of the term.

Part 8: Board

8.01 Duties of Directors

8.01.1 The primary function of Directors is to make decisions in the public interest, balancing this responsibility with an understanding of the occupational therapy profession and the environments in which it is practised. Directors establish the goals and policies of the College in accordance with the relevant legislation.

8.01.2 The duties of Directors include:

- a. serving on the Board and at least one committee to which they are appointed;
- b. serving on additional committees, task forces, standing committees or advisory groups from time to time;
- c. reviewing all material sent in advance for the Board and committee meetings;
- d. developing and maintaining a knowledge of Board functions and issues facing the Board;
- e. contributing constructively to Board and committee discussions, and understanding and respecting the rules of order as prescribed by the Board;
- f. identifying relevant expertise or contacts as resources;
- g. acquiring a working knowledge of policies and procedures relating to their specific committee(s);
- h. communicating with Registrants, and other interested parties in a manner consistent with confidentiality requirements and Board policy; and

- i. identifying issues to be added to the Board or committee agenda in advance of any meeting.

8.01.3 Directors must also:

- a. demonstrate accountability to the public through decision-making in the public interest;
- b. abide by the code of conduct;
- c. identify and address conflict of interest situations as set out in the bylaws, including understanding and identifying cases in which prior knowledge may affect the ability to function on committee;
- d. recognize and respect confidential information learned in the course of College activities;
- e. understand the role of staff as resources to committees;
- f. resolve any concerns with the committee Chairperson, Board Chair or Vice-Chair;
- g. maintain good public relations with membership, the public, health care organizations, educational groups, and government bodies in their regions; and
- h. attend Board and committee meetings regularly.

8.02 Disqualification of Directors

8.02.1 An Elected Director or an Academic Appointee shall be automatically disqualified from the Board if they:

- a. resign from the Board;
- b. no longer meet the requirements for appointment;
- c. are in default of any fees prescribed by these bylaws for a period of more than 30 days;
- d. are found by a panel of the Discipline Committee to have committed an act of professional misconduct or are found to be incompetent;
- e. are found by a panel of the Fitness to Practise Committee to be incapacitated;
- f. are found guilty by a court or other lawful authority (unless it has been reversed on appeal or judicial appeal) in respect of:
 - i. a criminal offence;
 - ii. any offence relating to the prescribing, compounding, dispensing, selling, or
 - iii. administering of drugs; or
 - iv. any offence relevant to their suitability to practise occupational therapy;
- g. become a director, owner, board member, officer, or employee of any professional association;
- h. become a member of a Board of any other college regulated under the RHPA.
- i. cease to hold a certificate of registration;
- j. remain, thirty days after notice, in default of providing any information required by the College; or
- k. initiate, join, materially contribute or continue a legal proceeding against the College or any committee or representative of the College.

8.02.2 The Board may disqualify an Elected Director or an Academic Appointee from the Board if they:

- a. are found by two-thirds majority of Directors to have breached the Code of Conduct;

- b. fail to attend two consecutive meetings of the Board or of a Committee, of which they are a member, without reasonable cause in the opinion of the Board;
- c. fail to attend a hearing or proceeding, or part thereof, of a panel on which they sit;
- d. fail to attend, without cause, Director education hosted by the College annually;
- e. breach section 36 of the RHPA, in a manner that in the opinion of the Board, warrants disqualification;
- f. breach the conflict of interest provision(s) of these bylaws in a manner that in the opinion of the Board warrants disqualification;
- g. advocate or make a public statement (other than at a Board meeting) against a position taken by the College; or
- h. fail, in the opinion of the Board, to discharge properly or honestly any office to which they have been elected or appointed.

8.02.3 If the Registrar receives information which suggests that a Director meets one or more of the criteria for disqualification set out in section 8.02.1, the Registrar shall follow the procedure set out in section 8.02.5. Where the Registrar has reasonable and probable grounds to believe that a Director meets the criteria for disqualification and no one has made a complaint in writing, the Registrar shall make a complaint in writing.

8.02.4 The following procedure shall be followed in the event that a Director is alleged to have contravened the duties of a Director and is alleged to meet the criteria for disqualification set out in section 8.02.2.

8.02.5 Temporary Exclusion

- (1) A Director who becomes the subject of a complaint, mandatory report, disciplinary or incapacity proceeding, shall not serve on the Board or on any Committee until a final decision (including any appeal) has been rendered.
- (2) A Director who fails to pay any fees owing to the College or fails to provide any information required by the College shall not serve on the Board or any Committee until the failure is remedied unless the failure resulted in their disqualification.

8.02.6 An Elected Director or Academic Appointee who is disqualified from sitting on the Board ceases to be a Director.

8.03 Vacancies on the Board

8.03.1 If the seat of an Elected Director becomes vacant the Board may:

- a. appoint as an Elected Director, the candidate, if any, who had the most votes of all the unsuccessful candidates in the last election of Directors for that electoral district or if there was no other candidate in the last election of Directors for that electoral district, a member of the profession who is recommended by the Nominations Committee; or
- b. direct the Registrar to hold an election in accordance with these bylaws for that electoral district.

8.03.2 If the number of remaining Elected Directors is less than the minimum number

required by law, the Board shall take action under clauses 8.03.1 (a) or (b) so that the number of Elected Directors is not less than the minimum required by law.

- 8.03.3** The term of a member appointed under clause 8.03.1 (a) or elected under an election under clause 8.03.1 (b) shall continue until the time the former Elected Director's term would have expired.

8.04 Employment of Agents

The Registrar may employ for and on behalf of the College, any agents or employees as the Registrar thinks fit in connection with the control, management and administration of the College, and in that respect may authorize those persons to assist the Board in exercising the powers of and carrying out the duties of the College.

- 8.04.1** In addition to any other qualification for a position of employment with the College that the Board may deem appropriate, it shall be a qualification that the employee not be a Director, or if a member of the Board, that they resign as a Director prior to applying for employment with the College.

8.05 Appoint Members to Committees

- 8.05.1** The Nominations Committee shall recommend to the Board, appointments to all the committees.

- 8.05.2** Subject to the *Act*, Regulations and bylaws, the Chair of the Board may attend and participate in meetings of all committees. The Chair of the Board does not have a vote at committee meetings.

8.06 Minutes

The Board shall cause minutes to be kept of its proceedings and meetings to form a record of all motions and decisions, which shall be kept at the College office unless the Board otherwise decides.

The written record of the proceedings of a Board meeting when confirmed at a subsequent Board meeting, subject to any corrections made at such subsequent meeting, is conclusive proof of the accuracy of the contents of every such record.

8.07 Compensation

Elected Directors of the Board when attending Board or committee meetings or otherwise conducting the business of the Board or any of the committees, shall be paid a stipend at a daily rate and travelling and maintenance expenses necessarily incurred, in accordance with policies approved by the Board.

8.08 Making, Amending and Revoking Bylaws

- 8.08.1** The bylaws of the College or any section thereof may be enacted, amended, or revoked by a two thirds majority affirmative vote of Board Directors present and voting at a meeting of the Board called for that purpose.

- 8.08.1.2** The repeal of any bylaw in whole or part shall not in any way affect

the validity of any act done or right, privilege, obligation or liability acquired or incurred thereunder or the validity of any contract or agreement made pursuant to any such bylaw prior to such repeal. All Directors and other persons acting under any bylaw so repealed in whole or in part shall continue to act as if elected or appointed under the provisions of these bylaws.

- 8.08.2 Every bylaw and every amendment and revocation thereof shall be maintained in the College's records.
- 8.08.3 Notice of any proposed addition, amendment, or revocation of a bylaw shall be provided to Directors at least one week prior to the date of the Board meeting at which these will be considered, unless such notice is waived by unanimous vote of all the Board Directors.
- 8.08.4 A bylaw that is required under the Code to be circulated to the profession must be circulated to every Registrant at least 60 days before it is approved by the Board.

Part 9: Registrar and Interim Registrar

9.01 Registrar

9.01.1 The Board shall appoint ~~one of its employees as a~~ Registrar who is the Chief Executive Officer of the College and shall have such duties and responsibilities as as conferred by the Act, the RHPA, the bylaws, and the policies of the College as well as such duties and responsibilities assigned to the position by the Board of Directors.

~~9.02.0 The Registrar shall:~~

- ~~be responsible for the daily operations of the College including the management of all resources;~~
- ~~keep the register in the form required by these bylaws and the Code;~~
- ~~carry out such duties as authorized or required by the Code, including the appointment of investigators authorized under s. 75;~~
- ~~give all notices required to be given by the Act, regulations or bylaws;~~
- ~~be the custodian of the seal of the College and of all books, papers, records, contracts and other documents belonging to the College;~~
- ~~supervise the nomination and election of Directors and appointment of Professional Committee Appointees as described in these bylaws;~~
- ~~represent the College and its positions to interested parties;~~
- ~~provide leadership to the Board and staff, related to College operations, Board directives and emerging issues in the practice and regulation of occupational therapy provincially, nationally and internationally; and~~
- ~~perform such other duties as may be determined from time to time, by the Board.~~

9.129.02 Interim Registrar

The Board may appoint an interim Registrar from among the senior leadership team to

exercise the powers and to perform the duties, powers and functions of the Registrar when the Registrar is absent for an extended period or is unable to act or when there is a vacancy in the office of the Registrar.

Notwithstanding section 9.02, the Registrar may appoint an interim Registrar from among the senior leadership team to exercise the powers and to perform the duties, powers and functions of the Registrar when the Registrar will be absent or unable to act for a short period of time.

Part 10: Communications

Repealed - effective October 28, 2021

Part 11: Meetings of the Board

11.01 Regular Meetings

11.01.1 The Board of Directors shall have at least four regular meetings during the college year. Board of Directors meetings shall be held at the office of the College or at any other place as may be determined by the Registrar or the Board of Directors from time to time.

11.01.2 A regular Board meeting may only consider or transact:

- a. matters brought by the Executive Committee;
- b. recommendations and reports by committees;
- c. such other matters, not included in the agenda, that at least two-thirds of the Directors in attendance determine to be of urgent nature; and
- d. routine and procedural matters in accordance with the rules of order.

11.02 Special Meetings

11.02.1 A special meeting of the Board may be called by the Board Chair or the majority of Directors, who submit to the Registrar a written request for the meeting containing the matter or matters for decision at the meeting.

11.02.2 A Notice of Special Meeting shall state the business for which the meeting is called and contain sufficient information to permit the Director to form a reasoned judgement on the decision to be taken. No subject shall be considered at the meeting unless specifically mentioned in the notice.

11.03 Notice of Meeting

11.03.1 A Notice of a Regular Meeting shall be given in writing to all Directors at least 14 days prior to the proposed date and, where possible, sent by mail, electronic mail, or similar method.

11.03.2 A Notice of a Special Meeting shall be given in writing to all Directors at least five days prior to the proposed date, and where possible, sent by mail, electronic mail, or similar method.

11.03.3 No regular or special meeting shall be made void because of an inadvertent or accidental error or omission in giving notice. Any Director may waive notice of a meeting and ratify, approve and confirm any proceedings taken at the meeting.

11.04 Parliamentary Procedure

The Board shall be entitled to adopt, from time to time, such rules of order as it deems appropriate to govern the conduct of each Board meeting; provided that, in the event of a conflict between such rules of order and one or more provisions of the RHPA, the Act or these bylaws, the provisions of the RHPA, the Act, or the bylaws shall prevail.

11.05 Chairperson

The Chair of the Board and in the Chair's absence the Vice-Chair of the Board shall act as Chairperson of the meeting of the Board. In the absence of both the Chair and the Vice-Chair, a Chairperson shall be elected at the commencement of the meeting.

11.06 Majority Vote

Unless otherwise specified in these bylaws, matters considered at any meeting of the Board shall be decided by a majority vote cast upon each matter by the Directors present. Voting by proxy is not permitted at meetings of the Board.

11.07 Tie Vote

In cases of an equality of votes, the Board Chair shall have a deciding vote to break the tie.

11.08 Written Resolutions

A resolution in writing, signed by all persons entitled to vote on that resolution at a meeting of the Board or a committee of the College, is as valid as if it had been voted on at a meeting except where the *Act* requires a meeting or a hearing.

11.10 Adjournment

Any meeting of the Board may be adjourned at any time in order to later complete the business of that adjourned meeting.

11.11 Electronic Communication

Meetings of the Board may be held in any manner that allows all persons participating to communicate with each other simultaneously and instantaneously.

11.12 Quorum

Pursuant to section 6 of the Code, a majority of Directors constitute a quorum.

Part 12: Professional Committee and Community Appointees

12.01 Professional Committee Appointees

12.01.1 A Professional Committee appointee is eligible for appointment to a committee of the College as a Professional Committee appointee or, subject to Bylaw 12.04.2, is eligible for re- appointment if, on the date of the appointment or re-appointment they meet the requirements of clauses (c) through (p) of Bylaw 5.03.1 and:

- a. They practise occupational therapy in Ontario or reside in Ontario.

12.02 **Community Appointees and Adjudicator Appointees**

12.02.1 An individual is eligible for appointment to a committee of the College as a Community Appointee or, subject to Bylaw 12.04.2 is eligible for re-appointment if, on the date of the appointment or re-appointment they meet the requirements of clauses (c) through (p) of Bylaw 5.03.1 and:

- a. they reside in Ontario; and
- b. they have never been a registrant; and
- c. they have no direct or indirect ownership interest in an occupational therapy clinic or practice.

12.02.2 An individual is eligible for appointment or re-appointment to the Discipline or Fitness to Practise Committees of the College as an Adjudicator Appointee, if on the date of the appointment or re-appointment they meet the requirements of clauses (e) through (p) of Bylaw 5.03.1 and:

- a. they reside in Ontario;
- b. they have never been a registrant; and
- c. they have no direct or indirect ownership interest in an occupational therapy clinic or practice.

12.03 **Appointment to Committee**

12.03.1 A general call for individuals interested in appointments to committees will be made from time to time as determined by the Nominations Committee in order to create a pool of eligible candidates. ~~Specific requests will be made when Professional Committee and/or Community Appointees are required for specific committees.~~

12.03.2 In making an appointment, the Board shall take into consideration the location of practice or residence, competencies, experience, expertise, availability and other qualifications and characteristics of the candidate for appointment, in order to complement the attributes of the other Committee members.

12.04 **Terms of Office**

12.04.1 The term of office of a member of a committee of the College who is a Professional Committee or Community Appointee is three years from the date of appointment or re-appointment to the committee.

12.04.2 No Professional Committee or Community Appointee may be a member of the same committee of the College for more than six consecutive years.

12.04.3 A person who has served as a Professional Committee or Community Appointee for more than six consecutive years is not eligible for appointment as a Professional Committee or Community Appointee until at least one year has passed since the person last served as a Professional Committee or Community Appointee.

12.04.4 The term of office of an Adjudicator Appointee is three years from the date of appointment or re-appointment to the committee.

~~12.04.3~~**12.04.5** There is no limit to the number of terms an Adjudicator Appointee may serve on the Discipline and Fitness to Practise Committee.

12.05 Disqualification of Committee Members

- 12.05.1** A ~~Professional~~ Committee Appointee ~~or Community Appointee~~ is automatically disqualified from being on a Committee if they:
- a. Resign from a committee;
 - b. are in default of any fees prescribed by these bylaws for a period of more than 30 days;
 - c. are found by a panel of the Discipline Committee to have committed an act of professional misconduct or to be incompetent;
 - d. are found by a panel of the Fitness to Practise Committee to be incapacitated;
 - e. are found by two-thirds majority of Board members to have breached the Code of Conduct;
 - f. are found guilty by a court or other lawful authority (unless it has been reversed on appeal or judicial appeal) in respect of:
 - i. a criminal offence;
 - ii. any offence relating to the prescribing, compounding, dispensing, selling, or administering of drugs; or
 - iii. any offence relevant to the Registrant's suitability to practise occupational therapy;
 - g. become a director, owner, board member, officer or employee of any professional association.
 - h. become a member of a Board of any other College regulated under the RHPA
 - i. cease to hold a certificate of registration;
 - j. remain thirty days after notice, in default of providing any information required by the College;
 - k. initiate, join, materially contribute or continue a legal proceeding against the College or any Committee or representative of the College or
 - l. no longer meets the eligibility requirements.

- 12.06** The Board may disqualify a ~~Professional~~ Committee Appointee ~~or Community Appointee~~ if it is alleged that they contravened the duties of a Committee member or it is alleged that they:
- a. Failed to attend a hearing, or proceeding, or part thereof, of a panel on which they sit
 - b. Failed without reasonable cause, to attend two consecutive meetings of a committee or a subcommittee of which they are a member;
 - c. Failed to attend, without cause, Committee education hosted by the College from time to time;
 - d. Breached section 36 of the RHPA, in a manner that in the opinion of the Board warrants disqualification;
 - e. Breached the conflict of interest provisions of these bylaws in a manner that in the opinion of the Board warrants disqualification;
 - f. Advocated or made a public statement (other than at a Board meeting) against a position taken by the College; or
 - g. Failed to discharge properly and honestly any office to which they have been appointed.

- 12.07** The following procedure shall be followed in the event that a ~~Professional~~ Committee Appointee ~~or Community Appointee~~ is alleged to have contravened the duties of a Committee

member or is alleged to meet one of the criteria for disqualification set out in section 12.

- i. A written complaint shall be filed with the Registrar. A complaint can be made by any person, including member of the public, a Board, a Professional Committee Appointee, a Community Appointee or the Registrar. If a member of the Board or a Committee receives such a complaint, they shall immediately file it with the Registrar.
- ii. The Registrar shall report the complaint to the Chair or the Vice-Chair who shall bring the complaint to the Governance Committee if the Registrar believes that the complaint may warrant formal action. If the Governance Committee is unable to address the complaint it may appoint another Committee to fulfill its duties under this section.
- iii. If the Governance Committee or any Committee appointed by the Governance Committee, after any investigation it deems appropriate, believes that the complaint may warrant formal action, it shall call a meeting of the Board. The Board shall determine whether there has been a breach of duties or whether the criteria for disqualification have been met and, if so, impose the appropriate sanction.

The appropriate sanction can include one or more of the following:

- a. censure of the Committee Member orally or in writing,
- b. removal of the Committee Member from any Committee on which they serve,
- c. disqualification of the Committee Member from serving on any committee.
- iv. A decision finding that there has been a breach of duties or that a Committee Member meets the criteria for disqualification, and a decision to impose a particular sanction must be approved by a two-thirds majority affirmative vote of Directors present and voting.
- v. The Committee Member whose conduct is the subject of concern shall not take part in the deliberation of the Board, however, they shall be given a reasonable opportunity to respond to the allegation.

12.08 A Committee Member who is disqualified under the bylaws from sitting on a committee of the College, ceases to be a member of the committee, and the Board shall appoint a successor as soon after the disqualification as feasible.

12.08.1 The term of office of a person who is appointed as a successor to a disqualified Committee member shall be three years.

12.09 Temporary Exclusion

- (1) A Professional Committee Appointee who becomes the subject of a complaint, mandatory report, disciplinary or incapacity proceeding, shall not serve on any Committee until a final decision (including any appeal) has been rendered.
- (2) A Professional Committee Appointee who fails to pay any fees owing to the College or fails to provide any information required by the College shall not serve on the Board or any Committee until the failure is remedied unless the failure resulted in their disqualification.

Part 13: Committees

13.01 Executive Committee

13.01.1 The Executive Committee shall be composed of:

- a. the Chair, the Vice-Chair, and two additional Directors;

- b. the Executive Committee includes two Elected Directors of the Board and two Public Directors.

13.01.2 The Chair of the Board shall be the Chair of the Executive Committee.

13.01.3 Executive shall report to the Board at each Board meeting. All recommendations and decisions are to be reported and/or approved by the Board.

13.02 Registration Committee

13.02.1 The Registration Committee shall be composed of:

- a. at least two Public Directors;
- b. one or more Professional Committee Appointee(s); and
- c. at the discretion of the Board, one or more Community Appointee(s).

13.03 Inquiries, Complaints and Reports Committee

13.03.1 The Inquiries, Complaints and Reports Committee shall be composed of:

- a. at least two Public Directors;
- b. four or more Professional Committee Appointees; and
- c. at the discretion of the Board, one or more Community Appointee(s).

13.04 Discipline Committee

13.04.1 The Discipline Committee shall be composed of:

- a. All Elected Directors;
- b. All Public Directors;
- c. one or more Professional Committee Appointee(s); ~~and~~
- d. at the discretion of the Board, one or more Community Appointee(s); and,
- d.e. One or more Adjudicator Appointee(s) who have been specifically appointed to chair panels of the committee.

13.05 Fitness to Practise Committee

13.05.1 The Fitness to Practise Committee shall be composed of:

- a. All Elected Directors;
- b. All Public Directors;
- c. one or more Professional Committee Appointee(s); ~~and~~
- d. at the discretion of the Board, one or more Community Appointee(s); and,
- d.e. One or more Adjudicator Appointee(s) who have been specifically appointed to chair panels of the committee.-

13.06 Quality Assurance Committee

13.06.1 The Quality Assurance Committee shall be composed of:

- a. at least one Public Director;
- b. four or more Professional Committee Appointee(s); and
- c. at the discretion of the Board, one or more Community Appointee(s).

13.07 Patient Relations Committee

- 13.07.1** The Patient Relations Committee shall be composed of:
- a. two Public Directors;
 - b. one or more Professional Committee Appointee(s); and
 - c. at the discretion of the Board, may include one or more Community Appointee(s).

13.08 Governance Committee

- 13.08.1** The Governance Committee shall be composed of:
- a. three Elected Directors;
 - b. one Public Director;
 - c. and at the discretion of the Board, one or more Community Appointee(s).

13.09 Finance and Audit Committee

- 13.09.1** The Finance and Audit Committee shall be composed of:
- a. three Elected Directors;
 - b. one Public Director;
 - c. and at the discretion of the Board, one or more Community Appointee(s).

13.10 Practice Subcommittee

- 13.10.1** The Practice Subcommittee shall be composed of:
- a. one Elected Director;
 - b. four or more Professional Committee Appointees;
 - c. and at the discretion of the Board, one or more Community Appointee(s).

13.11 Quality Assurance Subcommittee

- 13.11.1** The Quality Assurance Subcommittee shall be composed of:
- a. Four or more Professional Committee Appointees;
 - b. and at the discretion of the Board, one or more Community Appointee(s).

13.12 Nominations Committee

- 13.12.1** The Nominations Committee shall be composed of:
- a. two or more Community Appointees(s);
 - b. and at the discretion of the Board, one Professional Committee Appointee.

13.13 Equity Perspectives Advisory Committee

- 13.13.1** The Equity Perspectives Advisory Committee shall be composed of:
- a. four or more Professional Committee Appointees representing a cross-section of OT practice with either lived experience or practice experience related to equity, diversity, and inclusion,

- b. and at the discretion of the Board, one or more Community Appointee(s) with expertise related to equity, diversity, and inclusion.

13.14 Indigenous Insights Advisory Committee

13.14.1 The Indigenous Insights Advisory Committee shall be composed of:

- a. four or more Professional Committee Appointees representing a cross section of OT practice with either lived experience or practice experience related to Indigenous people.
- b. And at the discretion of the Board, one or more Community Appointee(s).

13.15 Appointment of Committee Members

Unless anywhere else stated in the bylaws, every Committee member shall be appointed by the Board, on the recommendation of the Nominations Committee with the exception of Executive Committee, whose members shall be elected to office by the Board.

Part 14: Provisions Applicable to All Committees

14.01 Committee Procedures

14.01.1 Unless otherwise prescribed in these bylaws, the Nominations Committee shall recommend to the Board for approval a Chairperson for each committee.

14.01.2 Every appointment of a Board Director to a committee ~~with the exception of Professional Committee and Community appointments~~ automatically expires at the meeting held in conjunction with the annual election of officers.

14.02 Location and Frequency of Meetings

14.02.1 Committee meetings shall, whenever possible, be held on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

14.03 Manner of Meeting

14.03.1 Any meetings of a Committee may be conducted by teleconference or any other means that permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously (including audio and video conferencing), and persons participating in the meeting by such means are deemed to be present at the meeting.

14.04 Chair

14.04.1 In the event that the Chair of the Committee is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting and if the Chair is unable to delegate their chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

14.05 Minutes

14.05.1 The Chair of each Committee shall ensure that accurate minutes of all Committee meetings and proceedings are recorded, approved and maintained at the College office.

14.06 Quorum

14.06.1 Any three members of a panel or committee constitute a quorum.

14.07 Simple Majority

14.07.1 Unless specifically provided for otherwise under the Code or the bylaws, every motion which properly comes before a Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

14.08 Chair Vote

14.08.1 If the Chair is a member of the Committee, the Chair may vote.

14.09 Tie Votes

14.09.1 In the event of a tie vote, the motion is defeated.

Part 15: Conflict of Interest

15.01 Conflict of Interest – General

- 15.01.1** Every Board Director shall act in the best interests of the public, and no Director by reason of their appointment shall conduct themselves as a representative of any professional, socioeconomic, cultural or geographic group or other constituency.
- 15.01.1.1** It is expected that all Directors will speak with a united voice after a decision has been made or a policy has been set.
- 15.01.2** For the purposes of these bylaws and all matters of Board conduct, a conflict of interest is defined to include real, apparent and potential conflicts.
- 15.01.3** Real, apparent and potential conflicts exist where a private or personal interest may be sufficient to influence the objective discharge of a person's official duties.
- 15.01.4** A real conflict exists when (1) the Director has a private interest, (2) the Director knows of the private interest, and (3) there is sufficient connection between the private interest and the Director's public responsibilities to influence the performance of them.
- 15.01.5** An apparent conflict exists when there is a reasonable apprehension, which reasonably well-informed persons could properly have, that a conflict of interest exists.
- 15.01.6** A potential conflict exists as soon as a real conflict is foreseeable.
- 15.01.7** Financial conflicts include:
- a. interests in contracts which the College is considering entering into; and
 - b. accepting benefits where the individual is exchanging the benefit for the individual's promise to influence College decision making.
- 15.01.8** The misuse of information is considered a conflict where information acquired in the course of performing College duties, is used for personal gain or for the personal gain or for the benefit of someone else.
- 15.01.9** Any member of the Board or any Professional Committee or Community Appointee who recognizes that they are in a direct or indirect conflict of interest situation will declare a conflict in the following manner:
- a. If the conflict relates to the member's overall role, the member will notify the Chair or the Registrar as soon as possible.
 - b. If the conflict relates to the member's role in the matter of a specific item on the Board agenda, the member will notify the Chair or the Registrar at the meeting(s) at which the item will be discussed or if the member is not present at such meeting, then at the first meeting held thereafter.
 - c. If the conflict relates to the member's role on a committee, the member will notify the Chair of the committee, prior to any meeting or hearing related to the matter.

15.01.10 The disposition of a conflict as reported above, will be done in the following manner:

- a. if the conflict affects the member's overall role:
 - i. the Chair will cause an investigation of the alleged conflict to be conducted through the Governance Committee; the Board will be informed;
 - ii. the Governance Committee's findings will be presented to the Board for resolution;
 - iii. the decision of the Board will be considered final.
- b. If a conflict relates to a member's role pertaining to an item on the Board agenda, the member will declare the conflict and will be permitted to provide a brief explanation to the Board. The member shall leave the meeting room during discussion of the agenda item giving rise to the conflict.
- c. If the conflict relates to a member's role pertaining to a panel of any committee, the Chair will appoint another member to the panel, if required.

15.01.11 Any member who believes that another member has a conflict which has apparently not been declared, will, if possible, discuss the matter with the member. If the matter is not resolved to the satisfaction of the member who perceives the conflict, they will discuss it with the Chair.

- a. The Chair will cause an investigation of the alleged conflict to be conducted through the Governance Committee; the Board will be informed;
- b. The Governance Committee's findings will be presented to the Board for resolution;
- c. The decision of the Board will be considered final.

15.01.12 Where the Board decides to disqualify an Elected Director based on the findings of an investigation related to conflict of interest, the Chair will request their resignation.

15.01.13 Where the Board decides to disqualify a Public Director based on the findings of an investigation related to conflict of interest, the Chair will request the resignation of the Public Director through the Public Appointments Secretariat.

15.02 Conflict of Interest from an Involvement in a College Process

15.02.1 A member of the Board or a committee also has a conflict of interest where they are the subject of a complaint, investigation or inquiry which has been referred to the Discipline committee or to a Board of Inquiry.

15.02.2 Where a member of the Board or a committee has a conflict of interest described ins.15.02.1, they shall automatically and immediately cease all activities at or on behalf of the Board, a committee or the College itself until the matter has been concluded. Where there is no finding against the member, they will return to all activities.

15.02.3 Where a member of the Board or a committee is required to cease an activity under s.15.02.2, the College shall proceed expeditiously to facilitate the conclusion of the process.

15.02.4 Nothing in this section prevents the use of other remedies for a conflict of interest

by a member of the Board or a committee including disqualification from the Board or committee under these bylaws.

Part 16: Information to Be Provided by Registrants

16.01 Information to Be Provided by Registrants

16.01.1 When requested, a Registrant shall promptly provide the College with the information required to be kept on the register pursuant to section 23 of the *Health Professions Procedural Code* and pursuant to section 17.01.1 of these bylaws and the following information in the manner determined by the Registrar:

- a. name(s), including previous name(s) and name(s) used professionally;
- b. home address including postal code;
- c. home telephone number;
- d. home facsimile number (optional);
- e. the Registrant's preferred unique electronic mail address for communications with the College;
- f. birth date;
- g. information regarding legal authorization to work in Canada;
- h. gender;
- i. professional examinations written or intending to write;
- j. educational designations received;
- k. currency hours;
- l. business facsimile number(s);
- m. employment status;
- n. employment profile information;
- o. information required for provincial and federal or College health human resource planning;
- p. information on language fluency if any language other than the language with which they met the fluency requirement at initial registration is or could be used by the Registrant in their location(s) of practice;
- q. proof of participation in a professional liability insurance policy acceptable to the College;
- r. information regarding the Registrant's participation in the College's Quality Assurance Program; and
- s. information of an event or circumstance that would provide reasonable grounds for the belief that the Registrant will not or is not able to practise occupational therapy in a safe and professional manner.

16.01.2 In addition to providing the information when requested, a Registrant shall also inform the College in writing of a change in any of the following information within thirty (30) days of the change occurring:

- a. name, home address, business address, business phone number;
- b. preferred unique electronic mail address for communications with the College;
- c. employer, employment status or employment profile information;
- d. change in professional liability coverage;
- e. details about registration, membership or licensure with any other regulatory body in any jurisdiction;
- f. details about misconduct, incompetence or incapacity proceedings against the

- Registrant, whether completed or ongoing, by a regulatory body in any jurisdiction;
- g. details about conditions or restrictions (such as bail conditions) imposed by a court or other lawful authority;
- h. information of an event or circumstance that would provide reasonable grounds for the belief that the Registrant will not or is not able to practise occupational therapy in a safe and professional manner; and
- i. details about any charges laid against the Registrant in respect of a federal, provincial, or any other offence, in any jurisdiction.

Part 17: Public Register

17.01 Public Register

- 17.01.1** In addition to the information set out in section 23 of the *Code*, the following information about each Registrant shall be included in the public register:
- a. Registrant's full name, nicknames and abbreviations that the Registrant uses in any location of practice;
 - b. any changes in the Registrant's name since the beginning of her/his occupational therapy education;
 - c. the Registrant's registration number;
 - d. the current class of certificate of registration held by the Registrant and the date on which the certificate was first issued;
 - e. the date and reason if a Registrant ceases to be registered;
 - f. the business addresses of all places of practice of the Registrant including postal code and business telephone numbers;
 - g. information from the Registrant's employer profile, except employment status category and hours;
 - h. languages spoken by the Registrant;
 - i. in addition to the name, business address and business telephone number of every OT health corporation of which the Registrant is a shareholder, if available, the business address, business telephone number, business electronic mail address, if there is one, and any operating names of the health profession corporation;
 - j. any information agreed to be placed on the public register by the College and the Registrant;
 - k. on or after January 1, 2016, a notation of the Registrant's registration, membership or licensure with any other regulatory body inside or outside of Ontario, if known by the College;
 - l. Repealed - effective June 26, 2018
 - m. 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;
 - n. 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, if known by the College;
 - o. 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, if known by the College;

- p. where a decision referred to in paragraph (n) or (o) is not available to the public in the originating jurisdiction, the information referred to in paragraph (n) or (o) 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;
- q. 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:
 - i. a criminal offence;
 - ii. any offence relating to the prescribing, compounding, dispensing, selling, or administering of drugs; or
 - iii. any offence relevant to the Registrant's suitability to practise occupational therapy.
- r. details of any existing conditions or restrictions (such as bail conditions) imposed by a court or other lawful authority, except if the publication of such information would violate any publication ban known to the College;
- s. details of any pending reinstatement applications/hearings;
- t. Where, for a complaint filed on or after January 1, 2017 or for a report received on or after January 1, 2017 for which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code, or for any decision made by the Inquiries, Complaints and Reports Committee on or after May 30, 2017, in respect of a complaint filed or report received, a panel of the Inquiries, Complaints and Reports Committee requires a Registrant to appear before a panel of the Committee to be cautioned in person, as authorized by paragraph 26(1)3 of the Code;
 - iv. a notation of that fact;
 - v. a summary of the caution-in-person;
 - vi. the date of the panel's decision;
 - vii. the date upon which the caution-in-person was administered by the Committee panel; and
 - viii. if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review and any reconsideration by the Committee is finally disposed of.
- u. Where, for a complaint filed on or after January 1, 2017 or for a report received on or after January 1, 2017 for which an investigator is appointed under 75(1)(a) or 75(1)(b) of the Code, or for any decision made by the Inquiries, Complaints and Reports Committee on or after May 30, 2017, in respect of a complaint filed or report received, a panel of the Inquiries, Complaints and Reports Committee requires a registrant to complete a specified continuing education or remedial program, as authorized by paragraph 26(1)4 of the Code;
 - ix. a notation of that fact;
 - x. a summary of the specified continuing education or remedial program;
 - xi. the date of the panel's decision;
 - xii. the date that the specified continuing education or remedial program is successfully completed; and

- xiii. if applicable, a notation that the panel's decision is subject to review and therefore is not yet final, which notation shall be removed once the review and any reconsideration by the Committee is finally disposed of.
- v. Notwithstanding paragraphs (t) and (u) above, and subsection 23(2)(11) of the Code, where after a review by the Health Professions Appeal and Review Board or a judicial review by an appellate court of the decision and reasons of the ICRC, the ICRC has been required to remove or vary a caution-in-person, a specified continuing education or remedial program, or an acknowledgment and undertaking in relation to matters involving allegations of professional misconduct or incompetence, the notation and summary may be removed once the ICRC makes a new decision. Where the original requirement to appear for a caution-in-person, to complete a specified continuing education or remedial program or an acknowledgment and undertaking has been varied, the Registrar may enter on the public register a summary of the process leading up to and the results of the variation.
- w. A summary of any currently existing charges against a Registrant, commenced on or after November 1, 2017, of which the College is aware, in respect of any criminal offence or any offence relevant to the Registrant's suitability to practise occupational therapy, in any jurisdiction, except if the publication of such information would violate any publication ban known to the College.

Any such summary shall be removed upon the written request of the Registrant, if the Registrant is acquitted, the charge is withdrawn or, the charge has been superseded by a finding.

- 17.01.2** The Registrar may give a direction under subsection 23 (2) of the Code before or after the initial entry of the Registrant's name in the register.

17.02 Providing Information to the Public

- 17.02.1** The Registrar shall give any information contained in the register which is designated as public to any person in printed, oral or electronic form unless the information shall not be disclosed by virtue of section 23 of the Code.

17.03 Fees

- 17.03.1** The Registrar may set and charge a fee for obtaining such information.

17.04 Non-Disclosure

- 17.04.1** The Registrar may refuse to disclose by virtue of section 23(7) of the Code information that is available to the public under these bylaws if the Registrar has reasonable grounds to believe that disclosure may jeopardize the safety of an individual or the information is subject to a publication ban or in the opinion of the Registrar the information is obsolete and no longer relevant to the member's suitability to practise.

Part 18: Fees

18.01 Schedule of Fees

The College shall maintain, as a Schedule to these bylaws, a list of all fees and penalties which may be charged or imposed by the College, as amended from time to time. Where no fee has been set out in the Schedule, a Registrant, health profession corporation, or other person shall pay to the College the fee set by the Registrar and CEO for anything that the Registrar and CEO is required or authorized to do.

18.01.1 The College will provide written notice of a fee or penalty to a Registrant when it is due. A Registrant's obligation to pay a fee or penalty continues regardless of whether the Registrant fails to receive notice of a fee or penalty due to incorrect or out of date contact information.

18.02 Registration Year

The registration year for Registrants shall be from June 1 to May 31 of the following year.

18.03 Application Fee

Every applicant for a Certificate of Registration of any Class shall pay an application fee, as set out in the Fee Schedule, immediately upon the applicant submitting a completed application to the Registrar and CEO.

18.04 Registration Fee

The registration fee is an amount equal to the annual renewal fee. After an applicant is notified by the College that their application for a Certificate of Registration has been approved, the initial registration fee for the General, Provisional or Emergency Class Certificate of Registration is payable, prorated on a quarterly basis, as set out in the Fee Schedule.

18.05 Renewal Fee

Every Registrant shall pay an annual renewal fee for each Certificate of Registration on or before May 31 of each year as set out in the Fee Schedule. At least 60 days before the renewal fees are due, the Registrar and CEO shall send to each Registrant a notice stating that the renewal fees are due and a request for information required under the regulations and the bylaws of the College. The obligation to pay the renewal fee continues even if the Registrar fails to provide the notice or the Registrant fails to receive such notice.

18.06 Fee Waiver

The Registrar and CEO may waive all or part of a fee, penalty, or amount in exceptional circumstances. The Registrar and CEO shall document the reasons for the waiver.

18.07 Outstanding Amounts

Any outstanding balance owing to the College in respect of any decision made by a College committee, and any other fees payable under this bylaw, will be added to and included in the registrant's annual renewal fees set out in the Fee Schedule.

18.08 Fee Adjustments

Effective June 1, 2024, and for the subsequent 5 years, the Board shall annually review the renewal fee, and where they deemed it appropriate, may increase the fee by not more than 2% each year, plus applicable taxes, rounded up to the nearest dollar.

Part 19: Professional Liability Insurance

19.01 Professional Liability Insurance

A Registrant must have professional liability insurance coverage and provide proof of such coverage to the Registrar, in the manner required by the Registrar, which meets the following requirements:

- a. a liability limit of at least \$5 million per incident;
- b. a minimum coverage of \$5 million for the annual policy period;
- c. no deductible to the coverage;
- d. at least five years of extension of the coverage for claims made when on an extended leave or after retirement or otherwise ceasing practice;
- e. no additional terms, conditions or exclusion, other than those standard to the insurance industry.

19.02 Sexual Abuse Therapy and Counselling Fund Endorsement

The professional coverage must include proof of a sexual abuse therapy and counselling fund endorsement that,

- a. provides coverage for therapy and counselling for every person eligible for funding under subsection 85.7(4) of the Code; and
- b. provides coverage, in respect of each such eligible person, for the maximum amount of funding that may be provided for the person under the *Regulated Health Professions Act, 1991*, for therapy and counselling as a result of sexual abuse by the Registrant.

Part 20: Therapy and Counselling for Sexual Abuse

Repealed - effective June 26, 2018

Part 21: Code of Ethics

The *Code of Ethics* of the College is attached as Schedule "A" and forms part of these bylaws.

Part 22: Affiliations

22.01 Health Profession Regulators of Ontario

The College shall maintain membership in the Health Profession Regulators of Ontario and actively participate in activities as appropriate.

22.02 Association of Canadian Occupational Therapy Regulatory Organizations

The College shall maintain membership in the Association of Canadian Occupational Therapy Regulatory Organizations and actively participate in Association activities as appropriate.

22.03 Other Organizations

The College may maintain membership in additional organizations consistent with its objects as may seem appropriate to the Board from time to time.

Part 23: Miscellaneous Provisions

23.01 Severable

The provisions of these bylaws hereof shall be deemed independent and severable and the invalidity in whole or in any part of these bylaws does not affect the validity of the remainder of these bylaws which shall continue in full force and effect as if such invalid portion had never been included here

Schedule “A” Code of Ethics

This Code of Ethics provides registrants with information about the College of Occupational Therapists of Ontario’s (the College’s) expectations for ethical practice. It outlines a set of values and principles and is intended for use in all contexts and domains of occupational therapy practice, and in all levels of decision making. It further describes the values occupational therapists embody as members of a self-regulating profession and it can be used to help clients, colleagues and members of the public understand our ethical commitments. As a critical component of the College’s Complaints, Discipline and Quality Assurance Programs, the Code of Ethics provides information that is crucial to all registrants.

Ethical practice defines what is good – and thus, what is right.

The College expects all practitioners to commit to *good* practice. This commitment requires occupational therapists to consciously consider what is *right* in furthering the interests of clients and in protecting the public interest.

The **Code of Ethics** forms the foundation for occupational therapist’s ethical obligations. It is the framework for the professional and personal conduct expectations outlined in laws, regulations, College standards and guidelines that govern the practice of occupational therapy. The Code of Ethics articulates the fundamental reference points that guide ethical practice and to which the profession aspires.

Fundamental Values of Occupational Therapists

Values are the ethical building blocks of human behaviour and interaction. They are at the heart of our everyday exchanges, and shape how we relate to and treat others.

Occupational therapists are in a position of duty and authority. They have a duty to the individuals who rely on their knowledge, skill and judgement. They are in a position of authority because they have access to personal and sensitive information and provide services to people who are vulnerable. Consequently, they have a professional responsibility to uphold the professions’ fundamental values.

While practice can adopt many forms and take place in a variety of contexts, occupational therapists must always aim for the same common goal – to enable clients to engage in meaningful ways with their world.

Respect and Trust

Occupational therapists are guided by two fundamental values: RESPECT and TRUST.

These core values are as important as the laws, regulations, and College standards and guidelines under which occupational therapists are governed.

Our values relate to the obligations occupational therapists have as self-regulated professionals in whom the public places respect and trust. These values give rise to the *principles of practice* that underpin occupational therapy services.

Respect

An occupational therapist promotes respect by applying the principles of:

Client-centred practice

- Determine what has meaning and purpose for the client;
- Recognize that clients are diverse and that each client is an individual;

Respect for autonomy

- Recognize each client's right to make choices for themselves;
- Honour the dignity and worth of each individual;

Collaboration and communication

- Practise as a team member with clients and other professionals.

Trust

An occupational therapist promotes trust by applying the principles of:

Honesty

- Truthfulness is a cornerstone of trust;

Fairness

- Practise justice in dealings with others and within the scope of your work by striving to ensure diversity, equity and inclusion in the provision of occupational therapy services.

Accountability

- Take responsibility for decisions, actions, professional competence and judgement;
- Actions taken by occupational therapists should serve the client's best interest, by working in a transparent, honest manner and while striving to do no harm.

Transparency

- Full disclosure ensures integrity in relationships with clients, other professionals and society.

Professional Boundaries

- In keeping with the standards of practice, set and manage boundaries relating to personal dignity, self-control, professional relationships, privacy, and confidentiality to ensure that the trust a client has placed in the occupational therapist is maintained.

Conflict of Interest

- Proactively recognize, disclose, prevent, and where that is not possible, take measures to effectively manage any conflicts of interest that arise while providing professional services.

The above principles are neither definitive nor exhaustive. Additional principles may be needed in specific situations such as a pandemic or other emergency.

Regulating Practice

The Code of Ethics helps inform the College's decisions about a registrant's conduct if a complaint or complaints are made about the practice of an occupational therapist.

The College also considers the laws, regulations and its standards and guidelines to define the expectations of occupational therapists. In a situation in which these documents do not explicitly address a concern or complaint, the College would turn to the fundamental values and principles of practice for guidance on how to respond.

Reflecting on Practice

Unexpected ethical issues can arise at any time. Therefore, it is imperative that all occupational therapists be aware of the core values and uphold them by applying the principles of practice in their everyday work. When an ethical issue is difficult to resolve, an occupational therapist should consult with colleagues and relevant resources, such as the College, managers or leaders.

Occupational therapists need to reflect on what these ethical expectations mean day-to-day, and their commitment to good practice. Reflective practice is essential to ensuring occupational therapists preserve and promote the respect and trust required to achieve the common goal of enabling individuals to engage in meaningful ways in their lives.

Glossary

Client	The client (also referred to as the patient in the RHPA) is the individual (or group of individuals) whose occupational performance issue(s) have resulted in a request for occupational therapy service. It is the client to whom the OT has a primary duty to apply the principles of practice.
Practice	This term refers to the overall organizational and specific goal-directed tasks related to the provision of occupational therapy, including direct client care, research, consultation, education or administration.
Registrant	A member of the College of Occupational Therapists of Ontario.

Schedule “B” Fee Schedule

Fees relating to applications for Certificate of Registration in any Class

a. Fee Item	Fee	HST 13%	Total Fee*
Application Fee	\$200.00	\$26.00	\$226.00
Returning Applicant	\$40.00	\$5.20	\$45.00

Fees relating to Registration for General, Provisional, or Emergency Class

Fee Item	Fee	HST 13%	Total Fee*
Full Year (June 1 – May 31)	\$671	\$87.23	\$758.00
Second Quarter (September 1 – November 30)	\$503	\$65.39	\$568.00
Third Quarter (December 1 – February 28)	\$335	\$43.55	\$379.00
Fourth Quarter (March 1 – May 31)	\$168	\$21.84	\$190.00

Fees relating to Renewal

Fee Item	Fee	HST 13%	Total Fee*
Renewal (Full Year June 1 – May 31)	\$671.00	\$87.23	\$758.00
Late Payment	\$100.00	\$13.00	\$113.00

Fees relating to Temporary Class

Fee Item	Fee	HST 13%	Total Fee*
Renewal	\$66.00	\$8.58	\$75.00

Fees relating to Professional Corporations and Certificates of Authorization

Fee Item	Fee	HST 13%	Total Fee*
Application	\$500.00	\$65.00	\$565.00
Annual Renewal	\$250.00	\$32.50	\$283.00
Late Payment	\$25.00	\$3.25	\$28.00

Other Fees

Fee Item	Fee	HST 13%	Total Fee*
Service Charge for declined payments	\$25.00	\$3.25	\$28.00
Duplicate Certificate	\$25.00	\$3.25	\$28.00
Letter of Standing	\$40.00	\$5.20	\$45.00
Copying documents	\$40.00	\$5.20	\$45.00

* Fees are rounded up to the nearest dollar.

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Policy Type:	Governance Process
Policy Title:	Terms of Reference – Discipline Committee
Reference:	GP10b
Date Prepared:	December 2009
Date Revised:	March 2010, October 2012, October 2014, June 2017, June 2020, March 2022, March 2023, April 2024, <u>October 2024</u>
Date Reviewed:	

Committee Category

Statutory

Mandate

The Discipline Committee (the “Committee”) is mandated to protect the public interest by establishing and maintaining a framework for dealing with matters referred to it for a discipline hearing by the Inquiries, Complaints and Reports Committee (the “ICRC”).

Although the Committee is a committee of the College of Occupational Therapists of Ontario (the “College”), it is independent of the College. It fairly and impartially holds hearings between the College and registrants of the College.

Accountability and Authority

The Committee is a statutory committee of the College and is established pursuant to section 10(1)(4), of the *Health Professions Procedural Code* (the “Code”) being Schedule 2 to the *Regulated Health Professions Act, 1991*.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Occupational Therapy Act, 1991*, and the regulations and bylaws made under these acts.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- To review and update all policies and documents of the College with regard to the Disciplinary process;
- To hold hearings, by way of panels, on specified allegations of a registrant’s professional misconduct and/or incompetence referred by the ICRC, in accordance with the requirements of the legislation;

- To hold hearings, by way of panels, on a registrant's application for reinstatement of a certificate of registration, if the certificate was revoked on the grounds of professional misconduct or incompetence;
- To consider applications from persons who are not parties to the hearing, to participate in the hearing according to the circumstances defined in section 41.1 of the Code and to determine the extent of the participation;
- To make orders excluding the public from a hearing or a part of a hearing in accordance with the circumstances defined in section 45 of the Code;
- To make orders preventing public disclosure of matters discussed at the hearing in accordance with section 45 of the Code;
- To, upon request of a witness in a sexual abuse case, make an order that no person shall publish the identity of the witness in accordance with section 47 of the Code;
- To, when a registrant has been found to have committed an act of professional misconduct or to be incompetent, make an order(s) for penalty or costs in accordance with section 51, 52, 53 and 53.1 of the Code;
- To have written decisions and reasons and ensure that the findings of a hearing are made public;
- To review and approve the Rules of Procedures of the Committee; and,
- Bring recommendations to the Board, as required, on associated policies/measures that will assist in avoiding or controlling risks.

Composition of Committee

The Committee shall be composed of:

- a. All Elected Directors/ Academic Appointee;
- b. All Public Directors;
- c. One or more Professional Committee Appointee(s); ~~and~~
- d. One or more Community Appointee(s), at the discretion of the Board; and.
- d.e. One or more Adjudicator Appointee(s) who have been specifically appointed to chair panels of the committee

Panels

Panels may be selected by the Chair to consider alleged registrant professional misconduct and incompetence referred to by the ICRC. In accordance with the Code, panels shall be composed of at least three (3) members, at least two (2) of whom shall be Public Directors and at least one (1) of whom shall be an Elected/Academic Director.

Where necessary, hearing panel members may be selected from the members of the Fitness to Practice (FTP) Committee.

No person shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing.

Composition Matrix

In addition to the attributes and diverse perspectives in the Board Competency Framework, the individuals appointed by the Board to join the Discipline Committee, will strive to demonstrate the following competencies:

Ability

- Lived experience accommodating or navigating a spectrum of physical, mental health, or cognitive abilities, the knowledge of which can enhance relevant, thoughtful decisions that protect the public.

Standards and Professional Ethics

- Knowledge and experience of the standards of practice and professional ethics that guide occupational therapy practice in Ontario and be able to determine where a breach or potential breach might occur.

Adjudication and hearing

- Knowledge and experience of participating in and/or chairing hearings within a legislative framework, and an understanding of administrative law principles and procedural fairness.

Writing/Editing

- Experience in professional and academic writing and editing.

Term of Office

The terms of Committee members who are also members of the Board is one year.

The term of Committee members who are not members of the Board is three years, with a maximum of two consecutive terms.

The Board approves appointments to the committee. The term of office for Committee members shall begin immediately after their appointment.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 14.06.1 of the College bylaws, a majority of members of the Committee constitute quorum. When sitting in panels, pursuant to the requirements of the Code, a minimum of three (3)

members of a panel, at least one (1) of whom must be a member appointed to Board by the Lieutenant Governor in Board, constitute quorum.

Selection of the Chair

The Chair of the Discipline Committee is to be appointed annually by the Board.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate their chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided otherwise under the Code or the College bylaws, every motion that properly comes before the Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Board meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the *Regulated Health Professions Act, 1991* to regulate the professional practice of occupational therapy in Ontario in the public interest, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the College bylaws.

Committee Records

The Committee shall ensure that accurate minutes of all Committee meetings and proceedings are recorded, approved, and maintained by the College. Electronic means are suitable for the maintenance of minutes and records.

Resources

The Committee is supported by the Manager of Investigations and Resolutions. Other staff members provide support to the Committee.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purpose of providing the annual report to the Board.

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security, and integrity of all materials during and after their term on the Committee.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by the Board.



Policy Type:	Governance Process
Policy Title:	Terms of Reference – Fitness to Practise Committee
Reference:	GP10e
Date Prepared:	December 2009
Date Revised:	March 2010, October 2014, June 2017, June 2020, March 2022, March 2023, April 2024, <u>October 2024</u>
Date Reviewed:	

Committee Category

Statutory

Mandate

The Fitness to Practise Committee (the “Committee”) is mandated to protect the public interest by establishing and maintaining a framework for dealing with matters referred to it for an incapacity hearing by the Inquiries, Complaints and Reports Committee (the “ICRC”).

Although the Committee is a committee of the College of Occupational Therapists of Ontario (the “College”), it is independent of the College. It fairly and impartially holds closed hearings between the College and registrants of the College.

Accountability and Authority

The Committee is a statutory committee of the College and is established pursuant to section 10(1)(5) of the *Health Professions Procedural Code* (the “Code”), being Schedule 2 to the *Regulated Health Professions Act, 1991*.

Limitations

The Committee shall only exercise the authority, and fulfill the duties and responsibilities authorized under the *Regulated Health Professions Act, 1991*, the *Occupational Therapy Act, 1991*, and the regulations and bylaws made under these acts.

Duties and Responsibilities

The Committee shall be responsible for the following activities:

- To review and update all policies and documents of the College with regard to the Fitness to Practise process;
- To hold closed hearings, by way of panels, on general allegations of a registrant’s capacity to practise the profession as referred by the ICRC, in accordance with the requirements of the legislation;
- To hold closed hearings, by way of panels, on a member’s application for reinstatement of a Certificate of Registration if the Certificate was revoked on the grounds of incapacity;
- To, if a panel finds a member to be an incapacitated member, make orders in accordance with section 69 of the Code;
- To issue to the parties a written decision with reasons at the conclusion of the proceedings;

- To review and approve the Rules of Procedure of the Committee; and,
- Bring recommendations to the Board, as required, on associated policies/measures that will assist in avoiding or controlling risks.

Composition of Committee

The Committee shall be composed of:

- All Elected Directors/Academic Appointee;
- All Public Directors;
- One or more Professional Committee Appointee(s); ~~and,~~
- One or more Community Appointee(s), at the discretion of the Board; ~~and,~~
- One or more Adjudicator Appointee(s) who have been specifically appointed to chair panels of the committee

~~d.~~

No member shall be selected for a panel who has taken part in the investigation of what is to be the subject-matter of the panel's hearing or who has taken part in a matter before the ICRC or Quality Assurance Committee relating to the same registrant who is the subject of the panel's hearing.

Panels

Panels may be selected by the Chair to investigate whether a registrant is incapacitated. In accordance with the Code, panels shall be composed of at least three (3) members, at least one (1) of whom shall be a Public Director.

Where necessary, hearing panel members may be selected from the members of the Discipline Committee.

Composition Matrix

In addition to the attributes and diverse perspectives in the Board Competency Framework, the individuals appointed by the Board to join the Fitness to Practise Committee, will strive to demonstrate the following competencies:

Ability

- Lived experience accommodating or navigating a spectrum of physical, mental health, or cognitive abilities, the knowledge of which can enhance relevant, thoughtful decisions that protect the public.

Standards and Professional Ethics

- Knowledge and experience of the standards of practice and professional ethics that guide occupational therapy practice in Ontario and be able to determine where a breach or potential breach might occur.

Adjudication and hearing

- Knowledge and experience of participating in and/or chairing hearings within a legislative framework, and an understanding of administrative law principles and procedural fairness.

Writing/Editing

- Experience in professional and academic writing and editing.

Term of Office

The terms of Committee members who are also members of the Board is one year.

The term of Committee members who are not members of the Board is three years, with a maximum of two consecutive terms.

The Board approves appointments to the committee. The term of office for Committee members shall begin immediately after their appointment.

Meetings

Meetings shall, whenever possible, be held at a place and on a date set in advance and shall occur at regular intervals and at such frequency as necessary for the Committee to conduct its business.

Quorum

Pursuant to section 14.06.1 of the College bylaws, a majority of members of the Committee constitute quorum. When sitting in panels, pursuant to the requirements of the Code, a minimum of three members of a panel constitute a quorum.

Selection of the Chair

The Chair of the Fitness to Practise Committee is to be appointed annually by the Board.

In the event that the Chair is unable or unwilling to preside at the meeting, the Chair shall designate an acting Chair from among the Committee members to preside at the meeting. If the Chair is unable to delegate their chairing duties, the Committee shall then select an acting Chair to preside at the meeting from among its members.

Voting

Whenever possible, decision-making at the Committee level shall be conducted using a consensus model. When necessary, formal voting will be used.

Unless specifically provided for otherwise under the Code or the College bylaws, every motion that properly comes before the Committee shall be decided by a simple majority of the votes cast at the meeting by the Committee members present.

The Chair, as a member of the Committee, may vote.

In the event of a tie vote, the motion is defeated.

Reporting

The Committee shall provide a report of its activities at every Board meeting on activities that have been undertaken since the last report. The Committee prepares an annual report of its activities at the end of each fiscal year.

Conflict of Interest

All Committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest. All Committee members have a duty to uphold and further the intent of the *Regulated Health Professions Act, 1991* to regulate the professional practice of occupational therapy in Ontario in the public interest, and not to represent the views of advocacy or special interest groups.

Comprehensive information regarding conflict of interest obligations is included in the bylaws.

Committee Records

The Committee shall ensure that accurate minutes of all Committee meetings and proceedings are recorded, approved, and maintained by the College. Electronic means are suitable for the maintenance of minutes and records.

Resources

The Committee is supported by the Manager of Investigations and Resolutions. Other staff members provide support to the Committee.

Confidentiality

Members of the Committee will have access to highly sensitive and confidential information which they must keep in the strictest confidence. It is understood that the duty of confidentiality for members of this Committee are especially stringent. Members of the Committee shall not discuss with anyone any information that the Committee considers, even in a general nature, except for the purpose of providing the annual report to the Board.

Each member of the Committee must sign a binding Confidentiality Agreement at the time of each appointment indicating their agreement to maintain the confidentiality, security, and integrity of all materials during and after their term on the Committee.

Evaluation

The Committee terms of reference will be reviewed annually and amended where necessary, for example in response to statutory, regulatory, or policy amendments. Any amendments to the terms must be approved by the Board.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Registration Committee
Subject: Additional Demographic Data Collection

Recommendation:

THAT the Board approve the collection of additional demographic data related to Indigenous and Race Identity.

Issue:

The Board is asked to approve the College’s plan to introduce additional self-identification data for registrants of the college.

Link to Strategic Plan:

Meaningful Engagement

The College builds the trust in its role and value through purposeful and meaningful engagement and collaboration.

- 1.2 Build opportunities for public and professional collaboration and participation with the College.
- 1.4 Integrates the practices of diversity, equity, and inclusion throughout the College and profession.

System Impact

The College collaborates for access to the profession and consistent quality practice.

- 3.3 Collaborates with national partners for further regulatory excellence.

Performance and Accountability

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

- 4.3 Leverages data to drive performance internally and externally to enhance service delivery.

Why this is in the Public Interest:

The College intends to collect additional demographic data to better understand the diversity of its registrants. There is no other entity that currently collects this information for occupational therapists in Ontario, so to be able address any inequities, the College first needs to understand the current baseline

data. It is in the public interest to address such inequities. The College plans to use the data set established by the Canadian Institute for Health Information (CIHI) on collecting race-based data.

Equity, Diversity and Inclusion Considerations:

One of the goals of collecting additional demographic data is to provide insight into the degree to which the diversity of the Ontario public is reflected in College registration. In addition, the data will be used to identify, monitor and inform actions by the College to close the gaps in health inequalities facing equity-deserving groups. Ensuring a racially diverse and representative health workforce is a recognized strategy to help address inequities in health systems impacting both patients and providers.

Background:

This is not the first time the College has requested additional data information at renewal. Since 2020, the College has asked registrants to self-identify if they are of Indigenous descent. This was in response to the Truth and Reconciliation Commission's (TRC) recommendation #23 to increase the number of Indigenous professionals working in the health care field.

The College established the Equity Perspectives and the Indigenous Insights panels of registrants to provide input on equity, diversity and inclusion in OT practice. In 2023, the panels recommended registrant demographic data collection as an important next step in combination with the implementation of the Indigenous Insights and Equity Perspectives Advisory committees to provide advice on principles of EDI in OT practice.

At the January 2024 Board meeting, the Board approved the College's new 2024-2027 Strategic Plan with an increased emphasis on equity, diversity and inclusion (EDI). Gathering demographic information about Ontario's occupational therapists is important for our journey to promote the principles of EDI in the provision of health care. It will also aid us in improving the training we offer for professional development related to EDI. By gathering this data, we can measure how our efforts are working and advancing over time.

New CIHI Standards

To collect this data, the College plans to use the data set developed by the Canadian Institute for Health Information (CIHI). CIHI is a nationally respected organization that provides decision makers with key information for their decision-making process. System partners often use their broad range of health system databases, measurements and standards, together with their evidence-based reports and analyses.

CIHI has recently updated their standards for data collection. While the College provides data to CIHI, it is noted that the data standard has changed and now includes additional demographic data. CIHI notes that additional demographic data such as race -based data is essential for measuring health inequities and for identifying inequities that stem from racism, bias and discrimination. This kind of data can be used to inform actions and interventions to improve health equity among the equity-deserving groups. (See attachment 1).

In establishing guidance on the use of standards for race-based data, CIHI notes that:

There are many benefits for collecting, measuring and analyzing race-based data, but there are also risks and barriers to assess and mitigate. Risks and barriers include potential discomfort, fear of self-identifying and the potential for stigma or discrimination to lead to unequal care or treatment. Prioritizing safe and appropriate collection and use of this data is an essential step in identifying and addressing inequities in health and health care.

While the risks identified by CIHI are in relation to accessing health care, it's reasonable to attribute these same concerns to registrants providing such information and the protection of regulators for the public. Collecting additional demographic data will enable the College to access funding from CIHI to undertake this project. The College will need to update its database to align with CIHI's new data standards.

Organizations Promoting additional demographic data collection

The Association of Canadian Occupational Therapy Regulatory Organizations (ACOTRO) comprises all ten of the provincial occupational therapy regulators. It is committed to the work contemplated by the Truth and Reconciliation (TRC) calls to action to build a culturally safer occupational therapy practice in Canada. ACOTRO promotes systemic change for Indigenous Peoples and accepts its responsibility to address Indigenous-specific racism and support cultural safety and humility in the regulation of occupational therapists. It has partnered with Indigenous People in the promotion of reconciliation and justice and in conversation about collection of Indigenous Identity with consideration of the CIHI Race-based and Indigenous Identity Tool Kit. Each member of ACOTRO recently received funding from CIHI to update their college's database to CIHI's newest data standards.

The Ontario Human Rights Commission (OHRC) notes that Canada's human rights legislative framework supports collection of such data on code grounds for a code-consistence purpose. The OHRC has found that data collection can play an important role in creating a strong human rights and human resources strategies for organizations.

The Office of the Fairness Commissioner (OFC) believes it is important to build upon initiatives regulators have taken in recognition of the need to identify diversity, equity and anti-racism issues that may impact their registration decisions, particularly as they relate to internationally educated applicants. In the past, the OFC has worked with the Ontario Human Rights Commission to organize a webinar on the collection of race-based data.

The *Regulated Health Professions Act, 1991 (RHPA)*, allows health regulatory colleges to collect personal information from members, "as reasonably necessary for the purpose of health human resource planning or research".

Other colleges that are collecting race-based data

- College of Nurses of Ontario (CNO) has begun collecting demographic information this year and has produced a first report on their findings. The CNO is seeking feedback from all registrants

with questions about racism, discrimination and bias in workplaces and their experiences interacting with CNO. CNO will use the data and findings from the first census to review processes, programs and policies across all organizational functions, through a DEI lens, including those that apply to registration.

- Other regulatory colleges in Ontario that have collected additional demographic data include:
 - College of Registered Psychotherapists of Ontario
 - College of Speech Language Pathologists and Audiologists of Ontario
 - Law Society of Ontario
 - Ontario College of Social Workers and Social Service Workers

The College is looking to include the voluntary collection of equity focused data including Indigenous identities and race-based information at renewal (see attachment 2). The College legal counsel has advised that no bylaw changes are required to enable the College to collect this information. The bylaws mention registrants must provide “information required for provincial and federal or College health human resource planning”, thus no consultation of registrants is required.

Discussion:

The College will need to update its data base in line with the new CIHI data standards in the next renewal period (by end of March 2025). Collection of this kind of data can be a sensitive issue, due to historic systemic racism and discrimination practices in various institutions. It is therefore important to initiate open communication that clearly explains:

- Why this data is needed,
- How it will be collected; and
- How it will be stored

Most importantly there will be an explanation of how the information will be used and what collection of this data will achieve.

CIHI is providing tools that can help the College to communicate intent and manage this kind of data appropriately.

It is anticipated that care will be taken when collecting this data to ensure:

- Registrants know that provision of this information is optional, and each registrant can choose not to provide the information, without any repercussions.
- Information is collected in ways that are safe, respectful, and do not cause harm (e.g. by providing resources on this topic and developing an FAQ).
- Appropriate and meaningful engagement with registrants.
- Transparency and accountability by providing information on how the data will be gathered, stored, used and managed.
- Explanation of the benefits and risks, if any, of collecting this information.

How the data will be used

The College intends to collect diversity and inclusion-focused data to use it to:

- Provide a baseline measurement of the demographic of occupational therapists which can be compared to Ontario general statistics. This will enable the College to better understand demographic trends and will inform efforts and strategies to promote equality and diversity in the profession.
- Develop programs and practice support that will assist registrants in better serving communities. This may include resources such as cultural competency and cultural humility training.
- Help the College meet its current strategic plan objectives and values which commits to integrating EDI practices throughout the organization and the occupational therapy profession.
- Highlight and track disparities and systemic barriers that equity-deserving groups face in accessing health care services or joining the profession.
- Support evidence-based decision making aimed at reducing or eliminating discrimination in the profession of occupational therapy, including determining if equity-deserving groups are disadvantaged in the application process.
- Measure progress towards the Truth and Reconciliation calls to collect data so that progress can be measured especially on increasing indigenous health professionals, based on the belief that only what is measured can be effectively understood and improved.
- Provide more robust data to CIHI, in turn allowing the organization to aggregate Canadian data regarding the profile of Canadian OTs.

Next Steps

Should the Board approve the adoption of the additional demographic information, next steps will include:

- Consultation with other College committees – Patient Relations, the Equity Perspectives and Indigenous Insights Advisory committees, the Ontario Society of Occupational Therapists, and OT members of equity deserving communities to get their feedback on:
 - Whether the proposed approach and methodologies are culturally appropriate
 - If the terminology is reflective of the group's usage
- Sharing a proposed diversity and inclusion data collection policy that addresses how the college intends to collect and store information and ensure confidentiality.
- Sharing the proposed data set and communication plan for registrants.

Attachments:

1. CIHI Guidance on the Use of Race-Based Data and Indigenous Identity Data Collection and Health Reporting in Canada
2. Proposed question and data set for the Indigenous identity and race-based data.



Guidance on the Use of Standards for Race-Based and Indigenous Identity Data Collection and Health Reporting in Canada



Canadian Institute
for Health Information

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Cette publication est aussi disponible en français sous le titre *Directives sur l'utilisation des normes de collecte de données fondées sur la race et l'identité autochtone pour la production de rapports sur la santé au Canada*.

ISBN 978-1-77479-121-9 (PDF)

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Acknowledgements

The Canadian Institute for Health Information (CIHI) would like to acknowledge and thank individuals from various organizations whose input and advice contributed to this work. While CIHI listened to a wide range of feedback to inform these standards, the content does not necessarily reflect the views of each individual and/or organization.

CIHI would especially like to thank Dr. Andrew Pinto and his team at the Upstream Lab for their collaboration on testing the standards during the development process.

As CIHI works toward better health for all people in Canada, we acknowledge that we live and work on the traditional territories of Indigenous Peoples. Our work to support the health of [First Nations, Inuit and Métis Peoples](#) is grounded in cultural safety and humility, respectful engagement, and Indigenous-driven processes and partnerships.

Introduction

Race-based and Indigenous identity data is vital for the identification and monitoring of health inequalities that stem from racism, bias and discrimination, and to inform interventions to improve equity in health care access, quality, experience and outcomes.¹⁻³ Currently, data collection on race, ethnicity and Indigenous identity is limited in the health care sector, and where data is available, the way it is collected often varies.

The Canadian Institute for Health Information (CIHI) has developed pan-Canadian minimum standards for collecting race-based and Indigenous identity data in health care, which are set out in this document. The purpose of these standards is to support harmonized, high-quality data collection and to help identify and address health inequities related to racism. Adoption within current health data collection systems is voluntary; however, implementation of the standards will facilitate monitoring, comparable analysis and reporting related to health care access, quality, experience and outcomes across racialized groups. The collected data can also be used to provide more appropriate and respectful care, and to inform policies and programs aimed at improving health equity.²

The race-based and Indigenous identity data standards align with standards developed by Statistics Canada for key surveys and resources, such as the census. In particular, the census provides important social, demographic and economic information about people in Canada.⁴ For population-based analyses, the CIHI standards can be mapped to Statistics Canada's population group and Indigenous identity standards, thus ensuring consistency across national data sources ([Appendix A](#)).

There are many benefits to collecting, measuring and analyzing race-based and Indigenous identity data, but there are also risks and barriers to assess and mitigate. Risks and barriers include potential discomfort, fear of self-identifying and the potential for stigma or discrimination to lead to unequal care or treatment. Prioritizing safe and appropriate collection and use of this data is an essential step in identifying and addressing inequities in health and health care. This document includes [guidance for health care providers and authorities](#) to mitigate the risks of harm and to ensure the safe and appropriate collection and use of this data, including data governance, community engagement, training for staff involved in data collection, and patient and public education.

Distinguishing race and ethnicity

The terms “race” and “ethnicity” are often used interchangeably or as a single, conflated construct — “race/ethnicity.”⁵⁻⁷ However, race and ethnicity are distinct social constructs, and the measurement and reporting of racial and ethnic health inequalities should reflect these differences.⁸⁻¹⁰

Race is a social construct used to judge and categorize people based on perceived differences in physical appearance in ways that create and maintain power differentials within social hierarchies. There is no scientifically supported biological basis for discrete racial groups.^{11, 12}

Racialization is the process by which people are judged and categorized into races primarily using differences in physical appearance. In this process, societies construct races as “real,” different and unequal in ways that pertain to economic, political and social life.¹³

Ethnicity is a multi-dimensional concept referring to community belonging and a shared cultural group membership. It is related to socio-demographic characteristics, including language, religion, geographic origin, nationality, cultural traditions, ancestry and migration history, among others.¹¹

A glossary of key concepts and relevant terminology is in [Appendix B](#).

Standards development process

This work has been ongoing for several years and has included a detailed review of the literature and engagement with many individuals and groups, including those who represent racialized and Indigenous communities, subject matter experts, research organizations, and federal, provincial and territorial governments. Stakeholders expressed interest in a measure that separates the concepts of race and ethnicity and is suitable for health care settings. Some important conditions were also outlined as part of the consultations, such as inclusion of a preamble to clarify why the data is being collected and how it will be used, the need for data governance agreements and community engagement, and a limited number of broad categories to make reporting on disaggregated data more feasible. CIHI determined that an approach that addressed these conditions would provide a valuable complement to Statistics Canada's information on population group categories and Indigenous identity.

CIHI released an interim standard for the collection of race-based data on May 29, 2020, in response to the urgent call to understand the impact of the COVID-19 pandemic within racialized communities. In July 2020, we released a discussion document, *Proposed Standards for Race-Based and Indigenous Identity Data Collection and Health Reporting in Canada*.¹⁴ It featured a set of proposed standards and summarized constructs and issues related to data collection and reporting. Following the discussion document release, CIHI gathered feedback from a wide range of stakeholders and partners.

In 2021, CIHI also collaborated with researchers at the [Upstream Lab](#) to support the inclusion of the proposed questions on race and Indigenous identity in a new study. One of the objectives of the [Screening for poverty and related social determinants and intervening to improve knowledge of and links to resources \(SPARK\) study](#)¹⁵ is to validate and standardize a set of questions on socio-demographic characteristics and social needs (e.g., housing). Findings of the SPARK study to date were incorporated in these standards.

Overarching themes from the engagements are summarized in [Appendix C](#). An updated version of the discussion document was published in March 2022 as a [supplementary report](#) accompanying this release.

Why is collecting race-based and Indigenous identity data in health care important?

“For too long, we have largely denied that we have, or even could have, systematic racial health inequities, because we like to think that a universal health care system, and multiculturalism as our official national policy, shield us from the racist conditions that produce health inequities, but we need data to move away from assumptions and towards uncovering systematic truths.”

— Dr. Arjumand Siddiqi, Professor and Division Head of Epidemiology,
Dalla Lana School of Public Health, University of Toronto

Race-based and Indigenous identity data standards

CIHI's race-based and Indigenous identity data standards were adapted from standards published in 2018 by the Government of Ontario's Anti-Racism Directorate (ARD) for the identification and monitoring of systemic racism.¹³ The Ontario ARD supports standardized collection of race-based data to inform anti-racism efforts in the education, child welfare and justice sectors.¹⁶ CIHI's standards consist of a distinctions-based Indigenous identity question ([Table 1](#)) followed by a race-based question ([Table 2](#)). These standards will support the measurement of inequalities in care and the identification of health inequities that result from racism and discrimination.

Indigenous identity data

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) identifies Indigenous Peoples' unique rights to self-determination, autonomy and governance.^{17, 18} Bill C-15 commits the Government of Canada to implementing the Declaration.^{17, 19} Indigenous Peoples' rights include the rights to data sovereignty (e.g., ownership, control, access and possession [OCAP®]) and the right to "determine their own identity or membership in accordance with their customs and traditions."¹⁷ Within this context, the implementation of the Indigenous identity data standards should include data governance agreements, engagement with Indigenous groups, and processes related to culturally safe and appropriate data collection.

What are important considerations when using or interpreting race and Indigenous identity data?

“The most important consideration when interpreting disaggregated data by race and Indigenous identity is clarity on what is being measured. Disaggregated data is a critical tool that helps make visible the ways in which structural racism, systemic white supremacy and social exclusion both harm Indigenous and racialized peoples and sustain unearned privilege for white settlers. By collecting race and Indigenous identifiers, and ensuring they are used in a good way in partnership with BIPOC [Black, Indigenous and People of Colour] collectives, we can take collaborative actions towards our fully realized health and wellness through evidence-based and self-determined policies, programs, and services.”

— Dr. Danièle Behn Smith, Deputy Provincial Health Officer, Indigenous Health, Ministry of Health, Government of British Columbia

Indigenous identity data standard

Table 1 Indigenous identity question and responses*

Question: Do you identify as First Nations, Inuk/Inuit and/or Métis?

Response categories (select all that apply)
Yes, First Nations
Yes, Inuk/Inuit
Yes, Métis
No
Do not know
Prefer not to answer

Note

* The implementation of the Indigenous identity data standard should include data governance agreements, engagement with Indigenous groups, and processes related to culturally safe and appropriate data collection.

Race-based data standard

Table 2 Race-based question and responses*

Question: In our society, people are often described by their race or racial background. These are not based in science, but our race may influence the way we are treated by individuals and institutions, and this may affect our health. Which category(ies) best describes you? Check all that apply:†

Response category	Examples
Black	African, African Canadian, Afro-Caribbean descent
East Asian	Chinese, Japanese, Korean, Taiwanese descent
Indigenous (First Nations, Inuk/Inuit, Métis)‡	First Nations, Inuk/Inuit, Métis descent
Latin American	Hispanic or Latin American descent
Middle Eastern	Arab, Persian, West Asian descent (e.g., Afghan, Egyptian, Iranian, Kurdish, Lebanese, Turkish)
South Asian	South Asian descent (e.g., Bangladeshi, Indian, Indo-Caribbean, Pakistani, Sri Lankan)
Southeast Asian	Cambodian, Filipino, Indonesian, Thai, Vietnamese, or other Southeast Asian descent
White	European descent
Another race category <i>Optional — please specify: [open text]</i>	Includes values not described above
Do not know	Not applicable
Prefer not to answer	Not applicable

Notes

* The collection of race-based and Indigenous data should involve community engagement to mitigate the risk of harm to individuals and communities, and to ensure the safe and appropriate use of the data.

† Individuals who identify as mixed race can select all categories that apply.

‡ Distinctions-based approaches — that is, separately identifying First Nations, Inuit and Métis Peoples — may be preferred.

Sources

Government of Ontario Anti-Racism Directorate. [Data Standards for the Identification and Monitoring of Systemic Racism](#).

Updated November 2021.

Upstream Lab. [Screening for poverty and related social determinants and intervening to improve knowledge of and links to resources \(SPARK\) study](#). Accessed January 27, 2020.

Options to collect more granular data

Both the race-based and Indigenous identity data standards are **minimum** data collection standards. More granular information on specific populations within each category may be collected, as long as consistency is maintained by having these subcategories roll up to the minimum standard for reporting. For example,

- “African Nova Scotian” could be included as a response option, but when reported in national comparisons, African Nova Scotians would be part of the “Black” group.
- For Indigenous identity, there may be a need for or interest in adding questions about specific communities or Nations, status or membership, or an optional write-in category to allow respondents to self-identify as they prefer.

Other variables, such as ethnicity, religion, preferred or spoken language and immigration status, can offer additional information to inform culturally safe and appropriate care. For example, collecting language data in addition to race-based and Indigenous identity data can help to determine the language translation resources needed for the local population and potentially identify additional barriers faced by racialized groups.

For examples of granular data collection options, please refer to [Appendix D](#).

Guidance for health care providers and authorities

Based on feedback gathered from CIHI’s consultations and engagement, the collection and use of race-based and Indigenous identity data by health care providers and authorities should involve the following elements:

- Data governance, including protocols for how the data will be managed;
- Appropriate and meaningful engagement with Indigenous and/or racialized groups; and
- Processes to ensure that information is collected in ways that are safe, respectful and do not cause harm (e.g., staff education and training, patient and public education and supports).

Data governance

In Canada's health systems, governance of data and information is critical. Strong data and information governance ensures that data is timely, trusted and accurate.¹⁸ Data and information governance mechanisms, including policies, processes, systems and practices, should be reviewed and revised, as needed, with special focus and consideration given to the impact on Indigenous Peoples and racialized groups, and on the collection of their data.

First Nations, Inuit and Métis Peoples have the right to freely determine their political status and pursue their economic, social and cultural development (self-determination).¹⁷ Data and information about individual and community health and wellness are critical tools for self-determination. Indigenous data sovereignty principles (e.g., OCAP® principles) assert that First Nations, Inuit and Métis Peoples have collective sovereign rights and the fundamental authority to own and govern their data, regardless of where their data is housed.²⁰ Engagement, partnerships and data governance agreements with Indigenous authorities are key to the safe and appropriate use of Indigenous data. This includes protocols for the collection, management, access and use of the data throughout its life cycle.²⁰

Explore the following resources for additional information on data governance best practices:

- [Health Data and Information Governance and Capability Framework and toolkit](#),²¹ Canadian Institute for Health Information.
The framework and companion toolkit contain foundational knowledge, a checklist of capabilities and guides for performing internal and network-based assessments. After completing these assessments, organizations can create a plan that, once implemented, allows them to better govern their data and information.
- [A Path Forward: Toward Respectful Governance of First Nations, Inuit and Métis Data Housed at CIHI](#),²² Canadian Institute for Health Information.
This paper outlines some of the work that CIHI is doing to align our organizational policies and procedures with principles of Indigenous data sovereignty.
- [The First Nations Principles of OCAP®](#),²⁰ First Nations Information Governance Centre (FNIGC).
OCAP® principles establish how First Nations' data, information and cultural knowledge should be collected, accessed, used and shared.
- [Engagement, Governance, Access, and Protection \(EGAP\): A Data Governance Framework for Health Data Collected from Black Communities](#),²³ Black Health Equity Working Group.
A data governance and accountability framework developed by health experts in Black communities. This framework highlights the necessity for a new way of governing data in relation to Black communities in Ontario. It is structured around community needs and explicit partnerships.

Community engagement

Community engagement is best practice and foundational to the respectful collection and appropriate use of race-based and Indigenous identity data in health care. It is also a prerequisite for establishing data governance agreements with Indigenous Peoples and governments.

Community members and organizations are knowledgeable about the health priorities and broader social, political, economic and historical context of their communities. Where race-based and Indigenous identity data collection is being considered or planned, the community members (that is, people with lived experience and local knowledge) can provide valuable input. Health care organizations should engage representatives of racialized groups in meaningful dialogue to inform the data collection and reporting process. There are a number of ways to promote community involvement, including the creation of community governance tables, as advocated by the EGAP framework.²³ Consider using a framework such as the [IAP2 Spectrum](#)²⁴ in planning for engagement and the roles of various groups.

Explore the resources below for more information on frameworks, tools and techniques for engagement:

- [Community engagement resources](#),²⁵ including the [Index of Community Engagement Techniques](#)²⁶ and the [Community Engagement Planning Canvas](#),²⁷ Tamarack Institute.
The Index of Community Engagement Techniques²⁶ is a comprehensive list of community engagement techniques that can be selected based on the planned level of engagement and a tool for working through several main considerations when planning to engage.
- [Engagement, Governance, Access and Protection \(EGAP\): A Data Governance Framework for Health Data Collected from Black Communities](#),²³ Black Health Equity Working Group.
A framework developed by Black health sector leaders and equity experts in Ontario to support the collection, management, analysis and use of race-based data from Black communities in ways that advance health equity.
- [Engaging communities in your data collection initiative](#),²⁸ Health Commons Solutions Lab.
An overview of community engagement in equity initiatives, common challenges and resources for getting started.
- [Let's Talk: Community Engagement for Health Equity](#),²⁹ National Collaborating Centre for Determinants of Health.
A resource that explores 5 key practices for meaningful community engagement for health equity, including strategies and examples.
- [Regional Discussion Report: Review of First Nations, Métis and Inuit Questions on the Census](#),³⁰ Statistics Canada.
A report that describes the engagement process used to develop the questions about First Nations, Métis and Inuit populations in the 2021 Census.

Indigenous engagement

Colonialism and racism impact many areas of society, including research, data and measurement.³¹ Building and maintaining strong, sustainable relationships with Indigenous Peoples is essential for the respectful collection and appropriate use of Indigenous identity data. Respect, open communication and time are needed to build trust and mitigate any potential risks or harms.

CIHI's engagement with Indigenous partners, researchers and representatives of Indigenous organizations identified some important considerations, including the following:

Establish key partnerships

- Work with local partners to identify their data and information needs.
- Include representation from all appropriate groups and recognize and honour the unique needs of distinct populations.

Know your partners

- Understand and respect the history, culture, governance structure and needs of the communities you will be engaging with.
- Acknowledge colonialism and its impacts on health.

Engage early and often

- Maintain open and honest lines of communication throughout the process and engage at all stages of work.

Be transparent

- Communicate the purpose for collecting Indigenous identity data and provide clarity on the benefits/risks this may bring to the community.
- Work with the community to understand and use the data appropriately and ensure shared decision-making throughout the data life cycle

Processes for the safe collection of data

At the point of care, providing staff training and clear information to patients about the data collection process can facilitate culturally safe data collection. These practices reduce the risk of harm and improve the quality of collected data. The purpose of data collection should be clearly stated: to identify inequalities that may be the result of racism, bias and discrimination, and to support improvements to the quality of care.

Consultations with key partners and current evidence regarding best practices revealed the following recommendations for the safe collection of data:

Provide staff training and support for patients

- Provide education and training for staff who collect the data, with clear direction on how to do this respectfully and in a way that reduces the risks of harm (e.g., staff script for data collection and answers to frequently asked questions [FAQ], resources on topics such as implicit bias).
- Provide supports, information and culturally appropriate services for patients to help manage any potential harms caused by collecting the data (e.g., counselling services, information brochures).

Be clear about the purpose

- Explain why the data is being collected (transparency) and how the data will be used (accountability).
- Explain the benefits/risks of collecting the data.
- Give patients the choice to provide (or not provide) the information and ensure their decision does not impact their care.

Mitigate risks to privacy

- Put protocols, processes and infrastructure in place to ensure the privacy, security and confidentiality of the data.

The following resources provide further information related to the safe collection of data:

- Online training courses, National Collaborating Centre for Determinants of Health
 - [Webinars on racism, anti-racism and racial equity](#)³² include 5 webinar recordings as a primer on anti-racism and racial equity in relation to public health.
 - [Introduction to health equity](#)³³ is a 5-module introductory course aimed at helping public health professionals develop required skills for health equity work. Produced in collaboration with Public Health Ontario.
- [Cultural safety collection](#),³⁴ National Collaborating Centre for Indigenous Health
A repository of resources related to addressing barriers in accessing health and social services for First Nations, Inuit and Métis Peoples due to their experiences with racism, discrimination and marginalization.
- [Measuring health equity: Demographic data collection in health care](#),³⁵ Sinai Health System, Health Equity Office
Reports and resources related to the collection of data about demographics (including race, ethnicity and Indigenous identity):
 - [Training materials](#)³⁶ for data collectors include training videos, e-learning modules and a training participant manual. Materials cover the rationale for data collection, how to frame questions for patients, and answers to FAQ.
 - [Patient education materials](#)³⁷ include a glossary of terms and brochures to inform patients about the questions being asked.
 - [Guide to Demographic Data Collection in Health-Care Settings: A Comprehensive Guide to Planning and Implementing Demographic Data Collection in Health-Care Settings](#)³⁸ supports health care organizations through the process of implementing standardized data collection.
- Resources on race/ethnicity/Indigenous identity data collection,³⁹ Shared Health Manitoba
 - The training video [Collecting racial/ethnic/Indigenous identifiers during COVID-19](#)⁴⁰ includes explanations of race and racism in the context of health care, a rationale for data collection, and how to collect data using the provided script.
 - The [script for the collection of race, ethnicity, and indigeneity \(REI\) identifiers](#)³⁹ was created in the context of COVID-19 data collection. It provides the rationale for data collection and answers to patients' FAQ.

Next steps

CIHI will support provinces, territories and stakeholders within the health care system to enhance the collection of race-based and Indigenous identity data in health care. CIHI acknowledges that we are on a learning journey, guided by what we have learned, and continue to learn, from racialized groups and Indigenous Peoples, communities, governments and organizations. We will continue to learn from these collective efforts to identify best practices and refine the approach as needed. As suggested in the Government of Canada's Pan-Canadian Health Data Strategy, we need to collaborate to build an integrated health data system that focuses on the people it serves, with equity and data governance at its core.^{41, 42} Race-based and Indigenous identity data is one important tool to achieve this.

Appendices

Appendix A: Mapping CIHI's standards to Statistics Canada's population group and Indigenous identity standards

CIHI's race-based and Indigenous identity data standards can be mapped to Statistics Canada's population group and Indigenous identity standards for population-based analyses. The following table maps the CIHI standards to the 2021 and 2016 Census, as well as to the Canadian Community Health Survey.

Table A1 Comparison of CIHI’s Indigenous identity data standard with Statistics Canada’s census and Canadian Community Health Survey questions

CIHI’s standard	Statistics Canada’s 2021 Census	Statistics Canada’s 2016 Census	Statistics Canada’s 2021 Canadian Community Health Survey*
Question			
Do you identify as First Nations, Inuk/Inuit and/or Métis? Select all that apply.	Is this person First Nations, Métis or Inuk (Inuit)? Note: First Nations (North American Indian) includes Status and Non-Status Indians. If “Yes”, mark “x” the circle(s) that best describe(s) this person now.	Is this person an Aboriginal person, that is, First Nations (North American Indian), Métis or Inuk (Inuit)? Note: First Nations (North American Indian) includes Status and Non-Status Indians. If “Yes”, mark the circle(s) that best describe(s) this person now.	Are you an Aboriginal person, that is, First Nations, Métis or Inuk (Inuit)? First Nations includes Status and Non-Status Indians. <i>[and follow-up question]</i> Are you First Nations, Métis or Inuk (Inuit)?
Response categories			
Yes, First Nations	Yes, First Nations (North American Indian)	Yes, First Nations (North American Indian)	First Nations (North American Indian)
Yes, Inuk/Inuit	Yes, Inuk (Inuit)	Yes, Inuk (Inuit)	Inuk (Inuit)
Yes, Métis	Yes, Métis	Yes, Métis	Métis
No	No, not First Nations, Métis or Inuk (Inuit)	No, not an Aboriginal person.	No
Do not know	Not applicable	Not applicable	DK
Prefer not to answer	Not applicable	Not applicable	RF

Note

* The Indigenous identity categories presented include a combination of 2 questions within the Canadian Community Health Survey.

Table A2 Comparison of CIHI’s race-based data standard with Statistics Canada’s census and Canadian Community Health Survey questions

CIHI’s standard	Statistics Canada’s 2021 Census	Statistics Canada’s 2016 Census	Statistics Canada’s 2021 Canadian Community Health Survey
Preamble and question			
In our society, people are often described by their race or racial background. These are not based in science, but our race may influence the way we are treated by individuals and institutions, and this may affect our health. Which category(ies) best describes you? Check all that apply:	This question collects information in accordance with the <i>Employment Equity Act</i> and its Regulations and Guidelines to support programs that promote equal opportunity for everyone to share in the social, cultural, and economic life of Canada. Is this person: Mark “x” more than one circle or specify, if applicable.	This question collects information in accordance with the <i>Employment Equity Act</i> and its Regulations and Guidelines to support programs that promote equal opportunity for everyone to share in the social, cultural, and economic life of Canada. Is this person: Mark more than one circle or specify, if applicable.	You may belong to one or more racial or cultural groups on the following list. Are you...?
Response categories			
Black	Black	Black	Black
East Asian	Chinese	Chinese	Chinese
	Korean	Korean	Korean
	Japanese	Japanese	Japanese
Indigenous (First Nations, Inuk/Inuit, Métis)	Not applicable	Not applicable	Not applicable
Latin American	Latin American	Latin American	Latin American
Middle Eastern	Arab	Arab	Arab
	West Asian (e.g., Iranian, Afghan)	West Asian (e.g., Iranian, Afghan, etc.)	West Asian (e.g., Iranian, Afghan)
South Asian	South Asian (e.g., East Indian, Pakistani, Sri Lankan)	South Asian (e.g., East Indian, Pakistani, Sri Lankan, etc.)	South Asian (e.g., East Indian, Pakistani, Sri Lankan)

CIHI's standard	Statistics Canada's 2021 Census	Statistics Canada's 2016 Census	Statistics Canada's 2021 Canadian Community Health Survey
Response categories			
Southeast Asian	Filipino	Filipino	Filipino
	Southeast Asian (e.g., Vietnamese, Cambodian, Laotian, Thai)	Southeast Asian (e.g., Vietnamese, Cambodian, Laotian, Thai, etc.)	Southeast Asian (e.g., Vietnamese, Cambodian, Malaysian, Laotian)
White	White	White	White
Another race category Optional — Please specify: [open text]	Other group — specify	Other — specify	Other — specify
Do not know	Not applicable	Not applicable	DK
Prefer not to answer	Not applicable	Not applicable	RF

Guidance for analysis

Racialized group and/or Indigenous identity may be used as equity stratifiers (or by groups) for measuring inequalities in health care access, quality, experience and outcomes. In [Measuring Health Inequalities: A Toolkit](#),⁴³ CIHI provides analytical guidance for selecting and calculating simple and complex inequality measures. As detailed in the toolkit, calculation of these measures requires counts or rates of total population reference groups (denominators). CIHI's race-based standards can be mapped to [Statistics Canada's population groups](#)ⁱ so that Statistics Canada data can be used to obtain denominator data. Additional resources for planning, conducting and reporting equity analyses are provided in the toolkit.

The potential for disaggregating groups will depend on the available sample size of data for these groups. It is recommended to consult with community organizations to identify classifications of mixed-race individuals that are relevant to the local population. However, you must follow Statistics Canada's methods of categorization for mixed-race groups if you require denominators from Statistics Canada data.

i. If you are deriving denominator data from the Statistics Canada population group categories, note that denominators may be slightly undercounted for the following CIHI race-based categories: East Asian, Southeast Asian and Middle Eastern. This undercounting occurs because Statistics Canada classifies members of these groups who indicate that they belong to more than one population group category within their race category under "Multiple Population Groups." For example, a respondent who is Korean and Chinese will be considered by the CIHI standard as East Asian but will fall under the Statistics Canada classification as "Two Population Groups." Similar logic applies for respondents who identify in Statistics Canada databases as both Filipino and Southeast Asian, or Middle Eastern and West Asian.

Appendix B: Glossary

The table below presents a list of key terms and concepts used in this document, as well as their definitions. It is provided to clarify the language, avoid the conflation of concepts, and distinguish these terms and concepts from colloquial language and understandings, where applicable.

Concept	Definition
Colonialism	Colonization is not only a process of taking political control over Indigenous lands, but also a system designed to maintain power and influence (e.g., imposition of colonial institutions of education, health care and law). ⁴⁴
Culture	The overt and subtle value systems, traditions and beliefs that influence our decisions and actions. ⁴⁵
distinctions-based	An approach that aims to avoid conflating the Indigenous Peoples within Canada, and instead recognizes First Nations, Inuit and Métis as separate groups, each with their own diverse cultures, traditions, communities and histories. A distinctions-based approach ensures that the unique rights, interests and circumstances of each of these groups are acknowledged, affirmed and implemented. ⁴⁶
equity stratifier	A characteristic such as a demographic, social, economic, racial or geographic descriptor that can identify population subgroups for the purpose of measuring differences in health and health care that may be considered unfair or unjust. ⁴⁷
Ethnicity	A multi-dimensional concept referring to community belonging and a shared cultural group membership. It is related to socio-demographic characteristics, including language, religion, geographic origin, nationality, cultural traditions, ancestry and migration history, among others. ¹¹
health equity	The absence of unjust, avoidable differences in health care access, quality, experience or outcomes. ⁴⁷
health inequality	Differences in health between individuals, groups or communities. Measuring health inequalities is a first step toward identifying and reducing health inequities. ^{47, 48}
implicit bias	Unconscious thoughts, attitudes or reactions that precipitate unintentional discriminatory behaviour. ⁴⁹
Indigenous data sovereignty	The collective and individual rights of Indigenous Peoples to the self-governance and management of data from and about their communities, lands and individuals. ^{20, 50, 51}
race (or racial group)	A social construct used to judge and categorize people based on perceived differences in physical appearance in ways that create and maintain power differentials within social hierarchies. There is no scientifically supported biological basis for discrete racial groups. ^{11, 12}
Racialization	The process by which people are judged and categorized into races primarily using differences in physical appearance. In this process, societies construct races as “real,” different and unequal in ways that pertain to economic, political and social life. ¹³

Concept	Definition
racialized group	A social construct describing groups that have racial meanings associated with them that affect their economic, political and social life. This term is sometimes preferred over “race” because it acknowledges the process of racialization. ^{11–13}
Racism	<p>Includes thoughts or actions that establish or reinforce the superiority or dominance of one racialized group over another.¹³ Racism exists on a spectrum and acts on multiple levels — internalized, interpersonal and systemic.</p> <p>internalized racism: The acceptance by a marginalized racialized group of negative messages concerning their abilities and worth.⁵²</p> <p>interpersonal racism: Racism that occurs when an individual experiences discriminatory behaviour from others.⁵²</p> <p>systemic racism: Racism that occurs at societal and organizational levels, giving rise to the other forms of racism.^{51, 52} It is often pervasive and subtle, and not always intentional. It is embedded in societal and institutional policies, regulations, legislation and ideologies that perpetuate racial disadvantage.^{53, 54}</p>
self-determination	A principle that concerns a person’s or nation’s right to determine and have control over their own future, political status, culture, economy and independence. ^{55, 56}
social construct	An idea that has been created and accepted by the people in a society and that is not an intrinsic property of a person or thing. ⁵⁷

Appendix C: What we heard

CIHI engaged with many individuals and groups, including organizations representing racialized and Indigenous communities, subject matter experts, research organizations, and federal, provincial and territorial governments. Feedback from these engagements affirmed key themes outlined in our [supplementary report](#) and identified additional points for consideration. Below is a high-level summary.

More race-based and Indigenous identity data is needed

- Limited race-based and Indigenous identity data are currently collected in health care in Canada. Current registration systems in health care are not equipped to collect race-based data. This lack of data often results in organizations relying on linkages to Statistics Canada datasets to obtain information on population group or other variables (e.g., immigration status, spoken language). In some cases, data linkage is not seen as practical, timely or efficient.

The purpose for data collection must be clear

- Racism is a problem in health care; race-based and Indigenous identity data collection is one important tool to address this issue.
- There is an urgent need to collect race-based and Indigenous identity data in health care to identify, monitor and address inequities that stem from bias and racism. This objective should be clearly communicated whenever collecting or using race-based and Indigenous identity data. The purpose of the data collection needs to be clear so that patients feel safe in answering these questions.
- Race and ethnicity are distinct concepts but are often conflated. If data on ethnicity is required in addition to race, it should be collected separately. CIHI's [supplementary report](#) provides further detail on the social constructs of race and ethnicity.

Reduce the risks of harm and be open and transparent

- There are risks of harm associated with collecting and using race-based and Indigenous identity data. These risks should be identified and mitigated through data governance agreements, community engagement, and processes for the safe collection of data (e.g., staff training and patient and public education).
- A distinctions-based approach to Indigenous identity, where people have the option to identify as First Nations, Inuit, or Métis, is best practice and recommended by community representatives.
- Openness and transparency are key to building trust with communities and mitigating risks of harm. This includes establishing a clear purpose for collecting and using race-based data; disclosing that collection is voluntary; providing rigorous staff training; ensuring informed consent, as well as the privacy, security and confidentiality of the data; and engaging communities.

Some race-based categories needed to be refined

- Overall, there was support for the proposed preamble, categories and question; however, changes were recommended to better reflect how people self-identify. This feedback was used to make changes, where possible. In areas where data collection can be adapted (e.g., primary care settings), categories can be subdivided or relabelled to allow for flexibility and then rolled up to CIHI's data standards.
- Data for individuals who identify with more than one race category should be collected in a manner that allows for accurate disaggregated reporting.

Context is key in reporting data

- Race-based and Indigenous identity data should not be used in ways that reinforce stereotypes and harm individuals. This data should be used to understand the broader social context of systemic racism and appropriately attribute inequities to their true root causes.
- Consider the differences in experiences within racialized groups. Race needs to be analyzed with other variables such as sex, gender, housing, income, access to education and health care, and immigration status. For example,
 - There may be significant differences in health care access, quality, experience or outcomes among genders within a single race-based group, or differences between race-based groups may be explained by another variable, such as household size. In both circumstances, considering other variables in the analyses yields information relevant to the planning of interventions.
- The principles of intersectionality can help guide how analyses are contextualized.⁵⁸
 - People have multiple social identities (e.g., race, gender) that intersect.
 - An individual's multiple social identities interact with social discrimination (e.g., racism, sexism), to produce health inequalities.
 - Collecting race-based and Indigenous identity data is a critical step in addressing systemic racism, but it is equally important to consider this data in the context of intersecting identities, including socio-economic status, gender and language, among others.

Appendix D: Options to collect additional data

Option to collect additional Indigenous identity data

Table D1 provides examples of data that could be collected alongside the Indigenous identity data. Locally relevant questions may also be added to support the delivery of culturally safe and appropriate care.

Table D1 Examples of additional Indigenous identity data

Optional Indigenous identifier questions	
If yes, First Nations	<p>Are you a Status Indian (Registered or Treaty Indian as defined by the <i>Indian Act</i> of Canada)?</p> <ul style="list-style-type: none"> • Yes, Status Indian (Registered or Treaty) • No <p>Source: Statistics Canada's 2021 Census</p>
	<p>If you identify yourself as a First Nations person, do you live on a reserve or off-reserve?</p> <ul style="list-style-type: none"> • On a reserve • Off-reserve
	<p>Are you a member of a First Nation or Indian band?</p> <ul style="list-style-type: none"> • Yes, member of a First Nation or Indian band — Specify name of First Nation or Indian band: [open text] • No <p>Source: Statistics Canada's 2021 Census</p>
If yes, Inuk/Inuit	<p>Are you enrolled under, or a beneficiary of, an Inuit land claims agreement?</p> <ul style="list-style-type: none"> • Yes — Specify agreement: [open-text] • No <p>Source: Statistics Canada's 2021 Census</p>
If yes, Métis	<p>Are you a registered member of a Métis organization or Settlement?</p> <ul style="list-style-type: none"> • Yes — Specify organization or Settlement: [open-text] • No <p>Source: Statistics Canada's 2021 Census</p>

Option to collect complementary data

Table D2 provides examples of ethnic or cultural origin and ethnicity-related data that could be collected alongside the race-based data. The information below was collected by Statistics Canada through the 2021 Census. Please refer to [Statistics Canada's variables](#) for additional information.

Table D2 Ethnicity and ethnicity-related data

Sample ethnicity question	
Ethnic or cultural origin of person	<p>Definition: Ethnic or cultural origin refers to the ethnic or cultural origins of the person's ancestors. Ancestors may have Indigenous origins, or origins that refer to different countries, or other origins that may not refer to different countries.⁵⁹</p> <p>Question: What were the ethnic or cultural origins of this person's ancestors?</p> <p>For examples of ethnic or cultural origins, visit Statistics Canada's Examples of ethnic or cultural origins web page.</p> <p>Category: Specify as many origins as applicable using capital letters: [open text]</p> <p>Source: Statistics Canada's 2021 Census</p>
Select ethnicity-related data	
Religion	<p>Definition: Religion refers to the person's self-identification as having a connection or affiliation with any religious denomination, group, body or other religiously defined community or system of belief. Religion is not limited to formal membership in a religious organization or group.⁶⁰</p> <p>Question: What is this person's religion?</p> <p>Indicate a specific denomination or religion even if this person is not currently a practising member of that group.</p> <p>For example, Roman Catholic, United Church, Anglican, Muslim, Baptist, Hindu, Pentecostal, Lutheran, Presbyterian, Sikh, Buddhist, Jewish, Greek Orthodox.</p> <p>For additional examples of denominations and religions, visit Statistics Canada's Examples of religions and religious groups/denominations web page.</p> <p>Categories: Specify one denomination or religion only: [open text]; No religion</p> <p>Source: Statistics Canada's 2021 Census</p>

Sample ethnicity question	
Select ethnicity-related data (continued)	
Language	<p>Definitions:</p> <p>“All languages spoken at home” refers to all languages that the person speaks at home on a regular basis at the time of data collection.⁶¹</p> <p>“Language spoken most often” at home refers to the language the person speaks most often at home at the time of data collection. A person can report more than one language as “spoken most often at home” if the languages are spoken equally often.⁶²</p> <p>Questions:</p> <p>a) What language(s) does this person speak on a regular basis at home? b) Of these languages, which one does this person speak most often at home?</p> <p>Indicate more than one language only if they are spoken equally at home.</p> <p>Categories: English; French; Other language(s) — specify: [open text]</p> <p>Source: Statistics Canada's 2021 Census</p>
Citizenship/ Immigration status	<p>Definitions:</p> <p>“Citizenship” refers to the country where the person has citizenship. A person may have more than one citizenship. A person may be stateless; that is, they may have no citizenship. Citizenship can be by birth or naturalization.⁶³</p> <p>“Canadian citizen by naturalization” refers to an immigrant who was granted citizenship of Canada under the Citizenship Act.</p> <p>Questions:</p> <p>a) Is this person a Canadian citizen? b) Is this person a citizen of a country other than Canada?</p> <p>Indicate more than one country of citizenship, if applicable.</p> <p>Categories:</p> <p>a) Yes, a Canadian citizen by birth; Yes, a Canadian citizen by naturalization; No, not a Canadian citizen b) No; Yes — Specify the country or countries of citizenship: [open text]</p> <p>Source: Statistics Canada's 2021 Census</p>

Sample ethnicity question

Select ethnicity-related data (continued)

Country of birth

Definitions:

“Place of birth” refers to the name of the geographic location where the person was born. The geographic location is specified according to geographic boundaries current at the time of data collection, not the geographic boundaries at the time of birth.⁶⁴

“Place of birth of parent” refers to the name of the geographic location where the father, mother or parent of the person was born. The geographic location is specified according to geographic boundaries current at the time of data collection, not the geographic boundaries at the time of birth.⁶⁵

Questions:

a) Where was this person born? Specify one response only, according to present boundaries.

b) Where were this person’s parents born?

Specify the country or countries according to present boundaries.

Categories:

a) Born in Canada [select province/territory]; Born outside Canada — Specify country: [open text]

b) All parents born in Canada; All parents born outside Canada — Specify the country of birth of each parent: [open text]; One parent born in Canada and one parent born outside Canada — Specify the country of birth outside Canada: [open text]

Source: [Statistics Canada's 2021 Census](#)

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Indigenous identity data standards¹

Question:

Do you identify as First Nations, Inuk/Inuit and/or Métis?

Response:

Categories (select all that apply):

- Yes, First Nations
- Yes, Inuk/Inuit
- Yes, Métis
- No
- Do not know
- Prefer not to answer

Optional Indigenous identifier questions

1. If yes, First Nations Are you a Status Indian (Registered or Treaty Indian as defined by the Indian Act of Canada)?
 - Yes, Status Indian (Registered or Treaty)
 - No
2. If you identify yourself as a First Nations person, do you live on a reserve or off-reserve?
 - On a reserve
 - Off-reserve
3. Are you a member of a First Nation or Indian band?
 - Yes, member of a First Nation or Indian band — Specify name of First Nation or Indian band:
[open text]
 - No
4. If yes, Inuk/Inuit Are you enrolled under, or a beneficiary of, an Inuit land claims agreement?
 - Yes — Specify agreement: [open-text]
 - No
5. If yes, Métis Are you a registered member of a Métis organization or Settlement?
 - Yes — Specify organization or Settlement: [open-text]
 - No

¹ Indigenous and Race Identity Data Standards were sourced from Canadian Institute for Health Information (CIHI)'s, Guidance on the Use of Standards for Race-Based and Indigenous Identity Data Collection and Health Reporting in Canada, document

Race Identity Data Standards

Question:

In our society, people are often described by their race or racial background. These are not based in science, but our race may influence the way we are treated by individuals and institutions, and this may affect our health. Which category(ies) best describes you? Check all that apply:

Response category	Examples
Black	African, African Canadian, Afro-Caribbean descent
East Asian	Chinese, Japanese, Korean, Taiwanese descent
Indigenous (First Nations, Inuk/Inuit, Métis)	First Nations, Inuk/Inuit, Métis descent
Latin American	Hispanic or Latin American descent
Middle Eastern	Arab, Persian, West Asian descent (e.g., Afghan, Egyptian, Iranian, Kurdish, Lebanese, Turkish)
South Asian	South Asian descent (e.g., Bangladeshi, Indian, Indo-Caribbean, Pakistani, Sri Lankan)
Southeast Asian	Cambodian, Filipino, Indonesian, Thai, Vietnamese, or other Southeast Asian descent
White	European descent
Another race category Optional — please specify: [open text]	Includes values not described above
Do not know	Not applicable
Prefer not to answer	Not applicable

Optional Race based data questions

Ethnic or Cultural Origin of a Person

Ethnic or cultural origin refers to the ethnic or cultural origins of the person's ancestors. Ancestors may have Indigenous origins, or origins that refer to different countries, or other origins that may not refer to different countries.

Question:

What were the ethnic or cultural origins of this person's ancestors?

Response:

Examples of ethnic or cultural origins include indigenous origins, origins referring to countries and other ethnic or cultural origins.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024

From: Nominations Committee

Subject: New Governance Policies: (i) Screening, Selection, and Appointment of Professional Committee and Community Appointees; and (ii) Screening of Board Candidates and Academic Appointees

Recommendation:

THAT the Board approve the following policies:

- *Screening, Selection, and Appointment of Professional Committee and Community Appointees*
- *Screening of Board Candidates and Academic Appointees*

Issue:

The Board is asked to review two governance policies related to the Screening, Selection, and Appointment of Professional Committee and Community Appointees and the Screening of Board Candidates and Academic Appointees.

Link to Strategic Plan:

This aligns under Performance and Accountability:

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

4.1 Ensures College governance is proactive, effective, competency-based, and accountable.

Why this is in the Public Interest:

This matter serves the public interest by clarifying that the appointment function of non-board members rests with the Nominations Committee as well as the screening of Board candidates and Academic Appointees in accordance with the College's new governance modernization.

Diversity, Equity, and Inclusion Considerations:

It is incumbent on the Nominations Committee to consider whether both proposed policies are consistent with the College's values and commitments relating to equity, diversity, and inclusion.

Background:

At the June 2021 Board meeting, the Board approved the Committee Competency Framework which sets the core competencies that all candidates for a position on the College's committees would need to demonstrate before they are eligible to stand for appointment.

BOARD MEETING BRIEFING NOTE

New Governance Policies: (i) Screening, Selection, and Appointment of Professional Committee and Community Appointees; and (ii) Screening of Board Candidates and Academic Appointees

Page 2 of 2

The Board approved substantive changes to the College bylaws at its March 2023 meeting in advance of the last professional committee recruitment. The Board also approved a process for screening candidates against the competencies by establishing a Nominations Committee, and a screening approach that focuses on balancing factors including committee competencies and needs, diversity and representation, practice areas, availability, and experience. (See attachment 1)

In addition, as part of an ongoing commitment to governance modernization and governance best practices, a third-party governance assessment was conducted in late 2023. This external assessment measured the Board's effectiveness in meeting the College mandate to regulate the occupational therapy profession in the public interest. Deanna Williams of Dundee Consulting Group delivered the report and her recommendations.

One of the recommendations from the report was related to further strengthening the election eligibility requirements for registrants to include a defined, competency-based process for the recruitment, and screening candidates before they are deemed eligible to run for an elected position. (See attachment 2).

Discussion:

As a key priority of the College's governance modernizations efforts, the College is embarking on a comprehensive review of all the governance policies. This review will ensure all the policies are up to date and, where necessary, new ones developed. Both proposed policies are part of this process. A need has been identified for a policy that sets out screening, selection, and appointment of professional and community appointees that is fair, efficient, and transparent.

Implications:

If approved, the Screening, Selection, and Appointment of Professional Committee and Community Appointees policy will replace GP17 (see attachment 3).

Attachments:

1. Draft Screening, Selection, and Appointment of Professional Committee and Community Appointees policy.
2. Draft Screening of Board Candidates and Academic Appointees policy.
3. GP17 - Current governance policy on elections and appointments for professional members



Policy Type: Governance Process
Policy Title: Screening, Selection, and Appointment of Professional Committee and Community Appointees
Reference:
Date Prepared: October 2024
Date Revised:
Date Reviewed:

Purpose

The College is committed to ensuring the appointment and re-appointment of qualified professional committee and community appointees to serve on College committees is conducted in a manner that is competency based, transparent, open, and equitable.

Application

The policy applies to:

- The **Nominations Committee** and to the **Staff of the College**, each of whom have a role in overseeing the recruitment, screening and selection of qualified professional committee and community appointee(s) to serve on College committees.
- The **Board** which is responsible for receiving and approving the recommended appointment for committee membership, as put forth by the Nominations Committee

Policy

- Part 12 of the College bylaws outline the eligibility requirements of professional committee and community appointees who are not members of the Board.
- The recruitment of professional committee and community appointees will begin where vacancies are required to be filled, following a needs assessment of the committee, and if applicable, following any changes to the terms of reference for the applicable College committee, or after the establishment of any new committees.
- The recruitment process will include a website posting and/or callout in the College newsletter and social media channels. Targeted communication and additional outreach may also be sent with specific information regarding recruitment, any specific competency, knowledge, or skill that the committee is seeking and the process to apply.
- A prospective professional committee or community appointee interested in serving on a College committee must complete the College's online orientation module and application form confirming their eligibility and practice experience, as well as submit a resume. The application form also provides the opportunity for candidates to submit a self-assessment based on the desired skills and competencies and provide further information that would speak to their suitability to help the Nominations Committee assess the overall qualifications of the candidate.
- Applicants will first be screened by College staff based on whether they meet the selection criteria. Applicants unsuccessful from previous committee recruitment campaigns but who gave prior consent

for the college to hold their documents on file may also be considered. A list of applicants and any accompanying submissions will be reviewed by the Nominations Committee. Short-listed candidates will be invited to participate in an interview with members of the Nominations Committee. The interview will focus on determining if candidates meet the criteria and have the desired competencies.

- The Nominations Committee will refer to the following criteria in recommending candidates to serve on committees:
 - The candidate's eligibility under the bylaws to serve on a committee
 - The candidate's degree of availability
 - The knowledge, skills, and experience of the candidate
 - The interest and commitment of the candidate with respect to committee involvement
 - The previous performance of the individual on College committees
 - The fit of the candidate's competencies with the competencies of other committee members
 - Diversity of identities and lived experiences; and
 - Avoiding conflict of interest or appearance of bias.
- Following the interviews, the Nominations Committee will recommend the candidate best qualified to be appointed based on the selection criteria. All candidates will be notified of the outcome of the screening process.
- The Nominations Committee will bring forward a recommendation to the Board for approval at its next meeting.
- The term limit for a professional committee or community appointee is three years, with a maximum of two consecutive terms.

Re-appointment

- All professional committee and community appointees for reappointment to a College committee may be required to participate in an interview with members of the Nominations Committee prior to appointment by the Board.



Policy Type: Governance Process
Policy Title: Screening of Board Candidates and Academic Appointee
Reference:
Date Prepared: October 2024
Date Revised:
Date Reviewed:

Purpose

The purpose of this policy is to establish a framework for screening registrants interested in serving on the College's Board of Directors as a Board Director or Academic Appointee.

Application

The policy applies to:

- The **Nominations Committee** and to the **Staff of the College**, each of whom have a role in overseeing the process for the election of Board Directors.
- The **Board of Directors** which is committed to a selection process that is competency based, open and transparent. This includes ensuring a public call for applications is made in accordance with the bylaws and screening registrants against a pre-determined set of selection criteria.

Policy

- Part 5 of the College bylaws outline the eligibility requirements of registrants interested in serving on the College's Board of Directors.
- The recruitment of registrants interested in serving on the Board of Directors will begin where vacancies are required to be filled as outlined in College bylaw, following a needs assessment of the desired skills and competencies that the Board is seeking.
- Registrants interested in serving on the Board of the College must complete the College's online pre-election orientation module and complete an application form confirming their eligibility and practice experience, as well as submit a resume. The application form also provides the opportunity for registrants to submit a self-assessment on the desired skills and competencies and provide further information that would speak to their suitability to help the Nominations Committee assess the overall qualifications of the registrant.
- Applicants will first be screened by College staff based on whether they meet the eligibility criteria. A list of registrants and any accompanying submissions will be reviewed by the Nominations Committee. Short-listed applicants will be invited to participate in an interview with members of the Nominations Committee. The interview will focus on determining if applicants meet the criteria and have the desired competencies.
- The Nominations Committee will refer to the following selection criteria in screening registrants to run for Board elections or as an Academic appointee:
 - The registrant's eligibility under the bylaws to serve on the Board

- The registrant's degree of availability
 - The knowledge, skills, and experience of the registrant
 - The interest and commitment of the registrant with respect to Board involvement
 - The fit of the registrant's competencies with the competencies of other Board Directors
 - Diversity of identities and lived experiences; and
 - Avoiding any conflict of interest or the appearance of bias.
- Following the interviews, the Nominations Committee will identify the registrants qualified to seek election onto the Board of Directors. All registrants will be notified of the outcome of the screening process. The qualified registrants will be placed on the ballot for voting by eligible voters in the electoral district where the election is being held.
 - As per section 5.05.7 of the College bylaws, the decision as to whether a registrant meets the pre-election competencies is within the sole discretion of the Nominations Committee.

Academic Appointee

- Part 6 of the College bylaws outline the eligibility requirements and procedures related to an Academic Appointee.
- The Nominations Committee shall receive any recommendations for candidate(s) from the Registrar and CEO, once the preliminary screening for eligibility is complete.
- All candidates will be invited to participate in a meeting with members of the Nominations Committee. The goal of the meeting is to confirm the expectations of participation on the Board and confirm the individual's understanding of their prospective role and availability.
- Following the meeting, the Nominations Committee will make a recommendation to the Board.

Re-appointment

- Any Board Director seeking re-election may be required to participate in an interview with the Nominations Committee.
- Any Academic Appointee seeking reappointment as a Board of Director may be required to participate in an interview with members of the Nominations Committee.



Policy Type:	Governance Process
Policy Title:	Elections and Appointments for Professional Members
Reference:	GP17
Date Prepared:	December 2009
Date Revised:	March 2010, October 2014, June 2017
Date Reviewed	October 2016, October 2019

Council conducts an open and transparent elections and appointments process for professional members.

Accordingly,

1. Six electoral districts (as outlined in our bylaws section 5.01) are established for the purpose of the election of members to Council.
2. A registrant is eligible for election to Council in an electoral district if, on the date of election, they meet all the criteria as outlined in section 5.03 of our bylaws.
3. The Registrar will supervise the nomination of candidates.
4. Every registrant entitled to vote in an electoral district is provided an opportunity to vote for their electoral candidate according to the procedures outlined in section 5.09 of our bylaws.
5. Procedures related to the administration of the election as well as the counting of votes, recounts as necessary and documenting the results of the vote are outlined in our bylaws.
6. In addition, one or two person(s), at least one of whom will hold a full-time faculty appointment, will be selected to sit on Council as an academic appointment.
 - a. Procedures related to academic appointments to Council are outlined in part 6 of our bylaws.

Note: *Public members are appointed through an Order in Council of the Province of Ontario.*

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Nominations Committee
Subject: Appointment of Public Director

Recommendation:

THAT the Board appoint new public director, Adrian Malcolm, to the Patient Relations and Quality Assurance committees, effective immediately.

Issue:

The College is pleased to have Mr. Adrian Malcolm be appointed to the Board for a three-year term. The Board needs to appoint him to appropriate committees. The Nominations Committee has made a recommendation.

Link to Strategic Plan:

Performance and Accountability – The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

Why this is in the Public Interest:

Ensuring that public input is provided into statutory committees is part of the design of the *Regulated Health Professions Act*.

Diversity, Equity, and Inclusion Considerations:

Mr. Malcolm is appointed to our College by the Ministry of Health. He brings with him his individual attributes and competencies.

Background:

The College operates with between 5 and 7 Board Directors that are appointed by the Ministry of Health. The College currently has 5 members as Mr. Malcolm has been appointed, while Ms Sabrina Shaw is no longer appointed. The addition Mr. Malcolm ensures that the College can continue to operate with its minimum complement of public appointees. The College ideally operates with all seven members, but the appointments are not within the College's control.

Discussion:

As Ms. Shaw is no longer on the Board or its committees, it is recommended that Mr. Malcolm be appointed in the committee spots now left vacant – i.e. the Quality Assurance and the Patient Relations committees. All Board members are automatically members of both the Discipline and Fitness to Practice committees.

BOARD MEETING BRIEFING NOTE

Appointment of Public Director

Page 2 of 2

Implications:

If the Board agrees with the recommended appointments, Mr. Malcolm will be situated on these committees immediately.

Attachments:

1. Order In Council – Mr. Adrian Malcolm.



Ontario

**Executive Council of Ontario
Order in Council**

**Conseil exécutif de l'Ontario
Décret**

On the recommendation of the undersigned, the Lieutenant Governor of Ontario, by and with the advice and concurrence of the Executive Council of Ontario, orders that:

Sur la recommandation de la personne soussignée, le lieutenant-gouverneur de l'Ontario, sur l'avis et avec le consentement du Conseil exécutif de l'Ontario, décrète ce qui suit :

PURSUANT TO clause 5(1)(b) of the *Occupational Therapy Act, 1991*, **Adrian Malcolm** of Toronto be appointed as a part-time member of the Council of the College of Occupational Therapists of Ontario to serve at the pleasure of the Lieutenant Governor in Council for a period not exceeding three years, effective the date this Order in Council is made.

EN VERTU DE l'alinéa 5 (1) b) de la *Loi de 1991 sur les ergothérapeutes*, **Adrian Malcolm** de Toronto est nommé au poste de membre à temps partiel du Conseil de l'Ordre des ergothérapeutes de l'Ontario pour exercer son mandat à titre amovible à la discrétion du lieutenant-gouverneur en conseil, pour une période maximale de trois ans à compter du jour de la prise du présent décret.

Recommended: Minister of Health
Recommandé par: la ministre de la Santé

Concurred: Chair of Cabinet
Appuyé par : La présidence du Conseil des ministres

Approved and Ordered:
Approuvé et décrété le : SEP 26 2024

**Lieutenant Governor
La lieutenant-gouverneure**

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Governance Committee
Subject: Governance Policies – (i) Risk Management and (ii) Strategic Planning

Recommendation:

THAT the Board approve the following revised policies:

- *Risk Management*
- *Strategic Planning*

Issue:

The Board is asked to review and approve the draft policies.

Link to Strategic Plan:

This aligns under:

Meaningful Engagement

- 1.1 Provides clear information about what to expect when working with occupational therapists
- 1.2 Builds opportunities for public and professional collaboration and participation with the College

Quality Practice

2.1 Takes an evidence-informed, risk-based approach to ensuring occupational therapists are competent, safe, effective and accountable

Performance and Accountability

4.1 Ensures College governance is proactive, effective, competency-based and accountable.

Why this is in the Public Interest:

The Board is responsible for managing and supervising the activities and affairs of the College in the public interest. It is therefore important for individual Board Directors and Committee Appointees to have a clear understanding of the strategic planning process and its risk oversight responsibilities.

Equity, Diversity and Inclusion Considerations:

The Board should ensure that equity, diversity, and inclusion perspective is considered and enhanced during the strategic planning process.

BOARD MEETING BRIEFING NOTE

Governance Policies – (i) Risk Management and (ii) Strategic Planning

Page 2 of 2

Background:

As part of the strategic activities this fiscal year, the College is embarking on a comprehensive review of all the Governance policies. This will ensure all the policies are up to date and, where necessary, new ones developed. Any proposed changes or new policies will be approved by the Board.

Discussion:

As part of the comprehensive review of the Governance Manual, we have developed the Risk Management and Strategic Planning policies to provide a shared understanding of the Board role and accountabilities in the strategic planning process and its risk oversight responsibilities. Being the highest decision-making authority within the College, the Board is responsible for managing and supervising the activities and affairs of the College. These responsibilities include planning and approving the College strategic plan every three years and providing leadership in risk management. It is therefore important for Board Directors to have a clear understanding of their role and responsibilities in ensuring the College meets its primary mandate of public protection.

Implications:

If both policies are approved by the Board, the previous governance policies related to risk management (RL12) and commitment to strategic planning (GP15) will be replaced with the proposed draft policy and procedures.

Attachments:

1. Draft Risk Management Policy
2. Draft Strategic Planning Policy
3. RL12 – Risk Management (existing policy to be replaced)
4. GP15 – Commitment to Strategic Planning (existing policy to be replaced)

Policy Type:	Governance Process
Policy Title:	Risk Management Policy
Reference:	RL12
Date Prepared:	January 2018
Date Revised:	October 2024
Date Reviewed:	

Purpose

This policy provides guidance and support to the Board in discharging its risk oversight responsibilities.

Application

This policy applies to:

- All **Board of Directors** who are jointly and severally responsible for oversight of the College; and
- The **Registrar and CEO** and **College staff** who share responsibility for identifying, analyzing and managing risk with the Board.

Policy

The College appreciates risk management as an essential ingredient of responsive, efficient and effective governance. While the Board provides leadership in risk management, it relies on the College management to implement systems, processes and procedures to enable the Board's risk oversight responsibilities.

The College recognizes that management and organizational risk exists in all aspects of its activities and cannot be avoided. It is critical for the College to maintain a common and consistent approach to identifying and managing any risks which could prevent the organization from achieving those strategic objectives and effectively executing its responsibility. Where appropriate, the approach should be transparent and uncomplicated.

These oversight responsibilities include continuously reviewing the planning and outcomes of identifying, assessing and to the extent possible, mitigating College's risk and ensuring the Registrar and CEO:

1. Provides complete and appropriate information or reports on risks to aid the Board in its risk management oversight responsibilities.
2. Disseminates to the Board risk management information or reports that contains complete and accurate details on existing and emerging risks facing the College.
3. Provides the likelihood and impact of any risk.
4. Highlights actions taken or in progress to mitigate the effects of the risks.
5. Prepares the risk management report for information prior to each Board meeting.

6. Undertakes a thorough review of the risk register annually to identify any needed project priorities for the upcoming year.
7. Periodically undertakes a review of the risk management framework to maintain its relevance and effectiveness.
8. Complies with all processes, procedures and systems for risk management.
9. Provides support to the committee¹ delegated with risk management responsibilities to build and sustain risk management culture and capacity.

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¹ Currently, it is the Executive Committee that is delegated with those responsibilities, but that may change in the future

Policy Type:	Governance Process
Policy Title:	Strategic Planning Policy
Reference:	GP15
Date Prepared:	December 2009
Date Revised:	March 2010
Date Reviewed:	October 2016, October 2019, October 2024

Purpose

This policy provides guidance and support for shaping the strategic direction of the College.

Application

The policy applies to:

- All **Board Directors** who approve the overall strategic directions for the College, and provides appropriate oversight to ensure the strategic plan is implemented; and
- The **Registrar and CEO** and **College staff** who are responsible to engage the Board in its development for approval by the Board. They are responsible for implementation of the Board's strategic initiatives and accountable to the Board for regular reporting on progress made to give effect to the strategic plan.

Policy

The strategic plan articulates the mission, vision, values for the College over the long-term. It also identifies strategic priorities and key performance indicators. These strategic priorities outline the College's plan and goals and identifies measurable targets and other indicators by which success against the stated objectives will be measured.

The College Board recognizes its legal and moral responsibility for the governance of the College and for ensuring that the vision and mission of the College is carried out. This is achieved by the Board developing the strategic direction the College takes, and ensuring:

1. At least every three years, the Board dedicates a portion of its resources to focus on the long-term goals of the College, that entails overseeing the planning, formulating and implementing the strategic plan
2. That the strategic plan outlines the College's vision, mission, and values
3. That the strategy details strategic priorities, goals and identifies measurable objectives against which success against the stated goals will be measured
4. That the strategy takes into account the current and possible future environment in which the college operates which may include feedback or information from multiple sources

5. That the strategic planning is based on effective and efficient risk and resources management strategies
6. That the Board approves the strategic plan
7. That the Registrar and CEO updates progress on the approved priorities to the Board regularly
8. The Board monitors progress made against the approved priorities and where underperformance or other issues are identified, corrective action is taken.

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Policy Type: Registrar Limitations
Policy Title: Risk Management
Reference: RL12
Date Prepared: January 2018
Date Revised:
Date Reviewed:

Information on risks to aid Council in discharging its risk management oversight responsibilities shall not be incomplete or inappropriate.

Accordingly, the Registrar will not allow the dissemination of risk management information that:

1. Contains incomplete or inaccurate details on existing and emerging risks facing the College.
2. Fails to provide the likelihood and impacts of the risks.
3. Fails to highlight actions taken or in progress to mitigate the effects of the risks.

Accordingly, the Registrar will also not:

Fail to comply with processes, procedures and systems for risk management.

Policy Type:	Governance Process
Policy Title:	Commitment to Strategic Planning
Reference:	GP15
Date Prepared:	December 2009
Date Revised:	March 2010
Date Reviewed	October 2016, October 2019

Council recognizes its legal and moral responsibility for the governance of the College of Occupational Therapists of Ontario and for seeing to it that the mission of the College is carried out and for shaping the strategic direction it takes.

Accordingly,

1. At least every three years, Council will dedicate a portion of its resources to focus on the long-term goals of the College.
2. All members of Council and the Senior Management Team participate in a strategic planning process agreed to by Council.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Governance Committee
Subject: Governance Policy - Role of Registrar & CEO

Recommendation:

THAT the Board approve the Role of Registrar & CEO policy and associated bylaw amendments.

Issue:

The Board is asked to review and approve the proposed policy (attachment 1, and the proposed bylaw changes, attachment 3). Both the Governance and Executive committees have reviewed this policy and bylaws and have recommended that they are ready for Board approval.

Link to Strategic Plan:

This aligns under Performance and Accountability:

The College maintains strong corporate and governance structures and fosters a culture of continuous improvement.

1- Ensures College governance is proactive, effective, competency-based and accountable.

Why this is in the Public Interest:

The Board is responsible for managing and supervising the activities and affairs of the College in the public interest. It is therefore important for Board Directors and the Registrar and CEO have a clear understanding of their respective roles and accountabilities in order to successfully fulfill their public protection mandate.

Diversity, Equity, and Inclusion Considerations:

The Board should consider whether the proposed policy raises any concerns from a diversity, equity, and inclusion perspective.

Background:

As part of the strategic activities this fiscal year, the College is embarking on a comprehensive review of all the Governance policies. This will ensure all the policies are up to date and, where necessary, new ones developed. Any proposed changes or new policies will be approved by the Board.

Discussion:

As part of the comprehensive review of the Governance Manual, the College is updating the Role of the Registrar policy, like the other roles and responsibilities already approved by the Board related to the

BOARD MEETING BRIEFING NOTE

individual Board Director and Committee Appointee, Board Chair, Vice Chair and the role of the Committee Chair. It is therefore important for the Board to have a clear understanding of the Registrar's role and responsibilities in ensuring the College meets its primary mandate of public protection.

As part of the comprehensive review of the Governance Manual, the College is eliminating the negative language in the manual in favour of positive language. The negative language was originally a style put forth by the policy governance framework that the college had adopted at one time. The proposed revised policy builds from the previous policy governance model, specifically the following Council Registrar Linkage policies which are attached for your consideration (Attachment 2):

- CRL1 – Global Council Registrar Linkage
- CRL2 – Unity of Control
- CRL3 – Accountability of the Registrar
- CRL4 – Delegation to the Registrar

The roles and responsibilities for the Registrar are broken into several subcategories, expected to make it easier to understand the Registrar's role and responsibilities.

Further, the proposed policy will also require changes to the College bylaws. Currently, Part 9 of the bylaws deals with the Registrar and Interim Registrar. It is proposed that the responsibilities listed in 9.01.2 be removed as they will be part of the policy. To ensure consistency, like the roles of the individual Board Director and the Board Chair and Vice-Chair, the proposed bylaw will include a general reference to the role of the Registrar (Attachment 3).

Implications:

If this policy and proposed bylaw changes are approved by the Board, the changes to the bylaws will be implemented immediately as no consultation for this change is necessary. The policy will be placed in the governance manual which will come back to the Board in 2025 as a finished package with all the policies in one place.

Attachments:

1. Draft Role of Registrar & CEO Policy
2. Current policies: CRL 1-4 (which will be retired upon approval of the new policy)
3. Proposed bylaw changes



Policy Type: Governance Process
Policy Title: Role of the Registrar & CEO
Reference:
Date Prepared: October 2024
Date Revised:
Date Reviewed:

Purpose

To establish and articulate the roles and responsibilities of the Registrar & Chief Executive Officer (CEO) of the College.

Application

This policy applies to:

- the **Registrar & Chief Executive Officer** who is the sole employee of the College's Board and fulfills the statutory duties of the role; and to
- the **Board of Directors** who, collectively, delegates the College operations to the Registrar and CEO.

Policy

The relationship between the Board and its Registrar and CEO is of critical importance. An effective and empowered Registrar and CEO is key to Board excellence, and an effective relationship between the two enables the Board to avoid the administrative details and short-term focus of College and staff management and to focus its attention on the vision, mission, values and strategic goals, long-term focus of governance.

The Registrar and CEO fulfills the statutory duties of the role and is responsible for management, operations and legislative programs of the College within financial targets set by the Board.

The Registrar and CEO hires and maintains an effective staff team, which includes providing timely and relevant policy and program information and recommendations to the Board and its committees. The Registrar and CEO provides leadership for COTO's programs and operations and sees that they contribute to meeting the objectives set out in the Board's Strategic Plan.

Specifically, the role of the Registrar and CEO includes the following responsibilities:

Executive Leadership/Organizational Management

1. Lead and participate in the development of operating plans and policy, ensuring the activities of operational and program areas are aligned with overall plans, strategies and priorities.
2. Implement processes to ensure continuous quality improvements of the College's programs and activities.

3. Lead the development and implementation of programs, policies, and protocols to ensure the College complies with its legislative obligations and for effective financial, regulatory, and operational performance, including reporting to the Board about College performance.
4. Support the operation and administration of the Board and its committees to ensure they meet statutory obligations as defined by the RHPA.

Strategy and Governance

5. Build and maintain capacity for strategic planning at the College and take ownership for the accomplishment of the Board's strategic goals as set out in the strategic plan approved by the Board. Ensure the regular review of strategic goals, and the College's vision, mission and values.
6. Assist and support the Board in fulfilling its governance responsibilities and in achieving and managing good governance practices.
7. In collaboration with the Executive Committee ensure the Board agenda and materials support effective and well-informed decisions.
8. Oversee the identification of trends, issues and risk relevant for the Board and committees' consideration and recommend and develop policies and activities to respond to them.

Financial, Risk and Facilities Management

9. Recommend the annual budget for Board approval and prudently manage the College's financial resources.
10. Provide relevant, timely and complete financial information to facilitate informed decision making by the Board.
11. Ensure financial and internal controls are in place at the College in addition to processes to identify and manage key risks to the College.
12. Ensure the long-term financial viability of the College including cost and revenue projections and investment planning.
13. Create a safe and efficient work environment that supports the effective utilization of all resources.

Human Resource Management

14. Recruit, lead, and develop the College's human resources and ensure policies and controls are in place to build and maintain a safe and tolerant working environment, ensuring its commitment to equity, diversity and inclusion that supports the goals of staff satisfaction, engagement and performance.
15. Foster a work culture that results in high productivity and staff morale.
16. Act as a key conduit between the Board and College staff and facilitate a productive relationship between College staff and Board Directors, as required.
17. Participate in an annual performance review.

Public Relations and Communications

18. Act as the College's spokesperson in collaboration with the Board Chair.
19. Develop and maintain meaningful relationships with the public and system partners, including the profession, government, relevant associations and regulatory peers.

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Policy Type: Council Registrar Linkage
Policy Title: Global Council Registrar Linkage Policy
Reference: CRL1
Date Prepared: December 2009
Date Revised: March 2010
Date Reviewed October 2016, October 2019

Council's only formal connection to the operations of the organization, the operation's achievements, and conduct will be through the Registrar.

CURRENT

Policy Type:	Council Registrar Linkage
Policy Title:	Unity of Control
Reference:	CRL2
Date Prepared:	December 2009
Date Revised:	March 2010
Date Reviewed	October 2016, October 2019

Only decisions of Council acting as a body are binding on the Registrar.

Accordingly,

1. Decisions or instructions of individual Council members, officers or committees are not binding on the Registrar except in rare instances when Council has specifically authorized such exercise of authority.
2. In the case of Council members or committees requesting information or assistance without Council authorization, the Registrar can refuse such requests that require, in the Registrar's opinion, a material amount of staff time or funds, or are disruptive.
3. Where the Registrar is unclear as to procedure, it is the responsibility of the Registrar to seek clarification from Council.

Policy Type:	Council Registrar Linkage
Policy Title:	Accountability of the Registrar
Reference:	CRL3
Date Prepared:	December 2009
Date Revised:	March 2010
Date Reviewed	October 2016, October 2019

The Registrar is Council's only link to operational achievement and conduct, so that all authority and accountability of staff, as far as Council is concerned, is considered the authority and accountability of the Registrar.

Accordingly,

1. Council, as a whole, will not give instructions to persons who report directly or indirectly to the Registrar.
2. Council, as a whole, will refrain from evaluating, either formally or informally, any staff other than the Registrar.
3. An individual Council member may be invited on behalf of the Registrar to provide direct input to the Registrar's evaluation of an individual staff member's performance.
4. Council will view the Registrar's performance as identical to organizational performance. Organizational accomplishment of Council-stated Ends and adherence to Registrar Limitations policies will be viewed as successful Registrar performance.

Policy Type:	Council Registrar Linkage
Policy Title:	Delegation to the Registrar
Reference:	CRL4
Date Prepared:	December 2009
Date Revised:	March 2010, October 2019
Date Reviewed	October 2016

Council will instruct the Registrar through written policies that prescribe the organizational Ends to be achieved and describe the organizational situations and actions to be avoided (Registrar Limitations), allowing the Registrar to use any reasonable interpretation of these policies.

Accordingly,

1. Council will develop policies instructing the Registrar to achieve certain results, for certain recipients. These policies will be developed systematically from the broadest, most general level to more defined levels, and will be called Ends policies.
2. Council will develop policies that limit the latitude the Registrar may exercise in choosing the organizational means. These policies will be developed systematically from the broadest, most general level to more defined levels, and they will be called Registrar Limitations policies.
3. As long as the Registrar uses any reasonable interpretation of Council's Ends and Registrar Limitations policies, the Registrar is authorized and encouraged to establish further operational policies, make decisions, take actions, establish practices, and develop activities.
4. Council may change its Ends and Registrar Limitations policies, thereby shifting the boundary between Council and Registrar domains. By doing so, Council changes the latitude of choice given to the Registrar. However, Council may not apply such shifts retroactively with respect to the evaluation of performance of the Registrar.

Council will respect and support the Registrar's choices within the Registrar Limitations established.

Current bylaw reference:

Part 9: Registrar and Interim Registrar

9.01 Registrar

9.01.1 ~~The Board shall appoint one of its employees as a Registrar who is the Chief Executive Officer of the College and shall have such duties and responsibilities as are conferred by the Act, the RHPA, the bylaws, and the policies of the College as well as such duties and responsibilities assigned to the position by the Board of Directors.~~

Commented [SK1]: New proposed wording for section 9.01.1

9.01.2 ~~The Registrar shall:~~

- ~~a. be responsible for the daily operations of the College including the management of all resources;~~
- ~~b. keep the register in the form required by these bylaws and the Code;~~
- ~~c. carry out such duties as authorized or required by the Code, including the appointment of investigators authorized under s. 75;~~
- ~~d. give all notices required to be given by the Act, regulations or bylaws;~~
- ~~e. be the custodian of the seal of the College and of all books, papers, records, contracts and other documents belonging to the College;~~
- ~~f. supervise the nomination and election of Directors and appointment of Professional Committee Appointees as described in these bylaws;~~
- ~~g. represent the College and its positions to interested parties;~~
- ~~h. provide leadership to the Board and staff, related to College operations, Board directives and emerging issues in the practice and regulation of occupational therapy provincially, nationally and internationally; and~~
- ~~i. perform such other duties as may be determined from time to time, by the Board.~~

Commented [SK2]: Section 9.01.2 will be removed given the Role of Registrar policy would be in effect.

9.02 Interim Registrar

The Board may appoint an interim Registrar from among the senior leadership team to exercise the powers and to perform the duties, powers and functions of the Registrar when the Registrar is absent for an extended period or is unable to act or when there is a vacancy in the office of the Registrar.

Notwithstanding section 9.02, the Registrar may appoint an interim Registrar from among the senior leadership team to exercise the powers and to perform the duties, powers and functions of the Registrar when the Registrar will be absent or unable to act for a short period of time.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Governance Committee
Subject: Governance Policies – (i) Board's Relationship with the Registrar and College Staff, and
(ii) Succession Plan for the Position of Registrar and CEO

Recommendation:

THAT the Board approve the following governance policies:

- *Board's Relationship with the Registrar and College Staff*
- *Succession Plan for the Position of Registrar and CEO*

Issue:

The Board is asked to review and approve the two draft policies.

Link to Strategic Plan:

This aligns under:

Meaningful Engagement

- 1.1 Provides clear information about what to expect when working with occupational therapists
- 1.2 Builds opportunities for public and professional collaboration and participation with the College

Quality Practice

2.1 Takes an evidence-informed, risk-based approach to ensuring occupational therapists are competent, safe, effective and accountable

Performance and Accountability

4.1 Ensures College governance is proactive, effective, competency-based and accountable.

Why this is in the Public Interest:

The College's Board of Directors, the Registrar and CEO, and College staff, each have separate but complementary roles in carrying out the College's mandate, and they share duties to serve the public interest. Effective collaboration and communication between the Board and Registrar/College staff is necessary to achieve good governance. Also, the role of Registrar and CEO of the College has significant operational and statutory obligations. As such, it is very important that a succession policy is in place to address any interruption in this role to ensure the College meets its ongoing statutory responsibilities and continued effective operation.

Diversity, Equity, and Inclusion Considerations:

The Board's relationship with the Registrar and College Staff policy encourages inclusivity and celebrates diversity which leads to positive experience for equity deserving groups. Part of the work the College is

BOARD MEETING BRIEFING NOTE

Governance Policies – (i) Board’s Relationship with the Registrar and College Staff, and (ii) Succession Plan for the Position of Registrar and CEO Policy and Procedures.

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undertaking to update the Governance Manual, will include clear and consistent language that will incorporate equity, diversity, and inclusion.

Background:

As part of the strategic activities this fiscal year, the College is embarking on a comprehensive review of all the Governance policies. This will ensure all the policies are up to date and, where necessary, new ones developed. Any proposed changes or new policies will be approved by the Board.

Discussion:

As part of the comprehensive review of the Governance Manual, we are developing a new governance policy related to building a strong and effective relationship between the Board of Directors, the Registrar and between the Board and College staff.

Board’s relationship with the Registrar and College Staff policy – draft

Numerous governance reviews of regulatory colleges have demonstrated a lack of trust that the Board has developed with either the Registrar or both the Registrar and College staff. The result is bad governance. In the governance review of the [College of Dentists of BC](#), one of the recommendations in the report includes:

10. The Board must recalibrate its relationship with its expert staff team (and Registrar). The Board must stop seeing itself as the College and recognize that its role is to govern the College and oversee its performance but that the College is run and managed by its professional staff. The Board and staff need to form a constructive and respectful partnership. Despite good intentions on all sides this is far from being achieved (p.72).

While it has not been an issue at COTO, the proposed policy in Attachment 1 addresses this recommendation and is considered good governance practice to articulate this relationship in policy. The Board’s relationship with the Registrar and with College staff have separate but complementary roles in carrying out the College’s mandate, despite each sharing duties to serve the public interest.

Succession Plan for the Position of Registrar and CEO policy and procedures – draft

This policy is being updated and includes revisions which reflect good governance practices related to succession planning of the Registrar and CEO position. For succession planning to be most effective, it should become a process that all Board Directors and staff of the College are aware of and understand. The attached Succession Plan for the Position of Registrar and CEO policy and procedures suggest joint responsibilities for the Board, the Registrar and CEO and Senior Leadership staff in the event of a planned or unplanned vacancy in the position of the Registrar.

Implications:

If both policies are approved by the Board, the previous governance policies related to succession planning; Registrar Replacement (GP18) and the Emergency Registrar Replacement (RL9), will be replaced with the proposed draft policy and procedures.

BOARD MEETING BRIEFING NOTE

Governance Policies – (i) Board’s Relationship with the Registrar and College Staff, and (ii) Succession Plan for the Position of Registrar and CEO Policy and Procedures.

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Attachments:

1. Draft Board’s Relationship with the Registrar and College Staff policy
2. Draft Succession Plan for the Position of Registrar and CEO Policy and Procedures
3. GP 18 – Registrar Replacement (this policy to be retired)
4. RL9 – Emergency Registrar Replacement (this policy to be retired)



Policy Type: Governance Process
Policy Title: Board's Relationship with the Registrar and College Staff
Reference:
Date Prepared: October 2024
Date Revised:
Date Reviewed:

Purpose

A strong and effective relationship between the Board of Directors and the Registrar and Chief Executive Officer (CEO), and between Board (and committee members) and College staff, plays a vital role in the College fulfilling its mandate and achieving its goals.

Application

The policy applies to:

- the **Registrar and CEO** who is the sole employee of the College's Board and fulfills the statutory duties of the role;
- the **Board of Directors** who, collectively, delegates the College operations to the Registrar and CEO;
- the **Board Chair**, and.
- the **College staff**

Policy

Governance of the College will be most effective when the Board and Registrar/CEO understand each other's roles, responsibilities and authorities, and work collaboratively. For the relationship to be effective and successful, both the Board and Registrar/CEO must understand and respect the boundaries of their respective powers and authority. At the same time, it is important for Board Directors, the Registrar/CEO and College staff members to recognize each other's distinct roles and powers. Each contribute significantly to the College's success.

Relationship with the Registrar

1. The Board provides direction to the Registrar/CEO, and through the Registrar to College staff and management. The Board ensures compliance with these directions. The Board delegates authority to the Registrar/CEO to establish operating policies and procedures and to make decisions to enable the College to operate effectively and achieve its strategic goals.
2. The Registrar/CEO is accountable to the Board, through the Board Chair. The Registrar/CEO reports regularly to the Board on matters that are relevant to the Board and the College.
3. The relationship between the Registrar/CEO and individual Board Directors and committee members is not hierarchical. Individual Board Directors do not have authority to instruct the Registrar/CEO

except with the approval of the Board. The Board Chair has the approval of the Board to collaborate and work together with the Registrar/CEO.

4. The Board Chair and the Registrar/CEO are responsible to manage Board matters that concern the relationship between the Board and staff members.
5. The Board establishes a process to evaluate the performance of the Registrar/CEO.

Relationship with College Staff

1. Individual Board and committee members engage collaboratively with College staff, who bring valuable knowledge and experience essential for the effective functioning of Board and committee business. Board Directors and committee members work together with staff to foster collegial interactions during College activities. It's important to honour the distinct roles within the organization, recognizing Board Directors as decision makers and staff as advisors and facilitators.
2. Board Directors should appreciate and respect the distinction between their governance and policy making roles and those of staff and management at the College. To support effective collaboration, Board Directors should recognize and support staff to manage administrative and operational matters, ensuring a clear understanding of each party's responsibilities.
3. College staff play a vital role in implementing the governance and strategic policy directions of the Board. They are encouraged to align their actions with Board policies and to operate within the established framework, ensuring effective collaboration and support for the Board's vision.
4. The Board Chair and Registrar/CEO are responsible for managing issues of concern between a staff member and a member of the Board or committee. In the context of committee matters, the committee Chair may deal with the issue in consultation with the Registrar/CEO.



Policy Type: Governance Process
Policy Title: Succession Plan for the Position of Registrar and Chief Executive Officer
Reference:
Date Prepared: October 2024
Date Revised:
Date Reviewed:

Purpose

The purpose of this succession plan is to ensure continuous coverage of executive duties, critical to ongoing operations and organizational stability, in the event of a planned or unplanned leave of the Registrar and Chief Executive Officer (CEO) for both short and long-term departures.

Application

This policy applies to:

- The **Board of Directors** and **Senior Leadership Team** who, collectively, shall act in the event the Registrar and CEO is unable to perform their duties to ensure consistent leadership for the management of the organization, and when necessary, to ensure an orderly transition in Registrar and CEO succession.
- the **Registrar & CEO** who will ensure that a succession plan is in place.

Policy

To ensure that provision is made for the continuity of leadership for the College, the Board of Directors will have a documented process in place for succession should the Registrar and CEO position become vacant due to sudden or planned absence, resignation, retirement, or termination.

Type of Departures

Planned Absence:

A foreseen absence where the return date can be identified such as a maternity or medical leave, or an absence with no return date.

Unplanned Absence:

An unforeseen absence often with little or no notice. These absences will vary depending on the type of leave, either short or long-term.

Permanent Departure:

An absence from which there will not be a return to employment, generally due to retirement, resignation or termination of employment. A permanent departure from employment can be planned well in advance or it can be the result of a sudden vacancy.

Procedures



Short-Term Absences of the Registrar and CEO (planned or unplanned)

Absences which are short in duration, usually 3 months or less, with the anticipated return of the Registrar and CEO.

1. The College's Senior Leadership Team is prepared to cover the Registrar and CEO duties and ensure business continuity under such circumstances.
2. The Registrar and CEO will delegate signatory responsibility to a member of the Senior Leadership Team. If the Registrar and CEO is not available to make this delegation, the Director of Finance, People and Corporate Services will convene with the Executive Committee to assist them to make this delegation.
3. The Board Chair will meet as necessary with the individual with delegated signatory authority to ensure continuity and stability of operations during the Registrar and CEO's absence.
4. If the absence lengthens in duration, the procedures for a longer duration should be implemented.

Long-Term Absence of the Registrar and CEO (planned or unplanned)

Absences which are longer in duration, usually 3 months to a year, with an anticipated return of the Registrar and CEO.

1. The College's Senior Leadership Team is prepared to cover the Registrar and CEO duties and ensure business continuity under such circumstances.
2. The Executive Committee will meet to recommend to the Board of Directors the appointment of an Acting Registrar and CEO. This may involve the Registrar and CEO if available to contribute to this decision.
3. The Board Chair shall call a special meeting of the Board to be held at the earliest time that a quorum can be arranged. This meeting may be held virtually.
4. The Board of Directors will appoint an Acting Registrar and CEO in accordance with section 9.01 of the College bylaws. Unless otherwise specified, the Acting Registrar and CEO is vested with all the responsibility and authority of the Registrar and CEO including strategic planning, financial management, Board support, risk management, and human resource oversight.
5. The Board Chair will meet regularly with the Acting Registrar and CEO to ensure continuity and stability of operations during the Registrar and CEO's absence.

Permanent Planned Departure of the Registrar and CEO (Retirement)

For the Registrar and CEO role optimal notice period of 4-6 months, in writing to the Board of Directors, for a planned permanent departure will provide the Board with appropriate time to organize and hire for the position and plan for a transition period.

Immediately upon notice of the Registrar and CEO's permanent departure:

1. The Board Chair will call a meeting of the Board to recommend members who will compose a Search Committee to oversee the departure, hiring and succession for the position of Registrar and CEO.
2. The Search Committee will develop a plan to ensure the permanent position of Registrar and CEO is filled upon the last day of employment of the Registrar and CEO and a transition plan is implemented and shared with the Board of Directors and staff.

Sudden Permanent Vacancy (resignation, termination, death)

If the Registrar and CEO suddenly departs or is otherwise unable to lead the College, it is vital to have an emergency transition plan in place.

It is the Board of Directors responsibility to identify interim procedures and responsibilities including the identification of an interim/Acting Registrar and CEO.

If a sudden vacancy occurs:

1. The College's Senior Leadership Team is prepared to cover the Registrar and CEO duties and ensure business continuity under such circumstances.
2. The Executive Committee and Senior Leadership Team will work together to identify a potential interim successor.
3. The Executive Committee will meet to recommend to the Board of Directors the appointment of an Interim Acting Registrar and CEO.
4. The Board Chair shall call a special meeting of the Board to be held at the earliest time that a quorum can be arranged. This meeting may be held virtually.
5. The Board of Directors will appoint an Interim Acting Registrar and CEO in accordance with section 9.01 of the College bylaws. Unless otherwise specified the Acting Registrar and CEO is vested with all the responsibility and authority of the Registrar and CEO including strategic planning, financial management, Board support, risk management, and human resource oversight.
6. The Board Chair will meet regularly with the Interim Acting Registrar and CEO to ensure continuity and stability of operations until a permanent Registrar/CEO is appointed.

Procedures in the instance of a permanent planned departure of the Registrar and CEO (Retirement) or a sudden permanent vacancy (resignation, termination, death)

Procedures:

1. The Board of Directors will appoint a Search Committee consisting of a minimum of the Board Chair, Director of Finance, People & Corporate Services, plus two members of the Board. The committee must be represented by at least one Public Director.
2. Role of the Search Committee:
 - a. Review the Registrar and CEO job description.

- b. Determine the search process which may include an internal search, or an internal/external search.
- c. If the decision is to conduct an open (internal and external) recruitment, the Search Committee with the assistance of the Director of Finance, People and Corporate Services will engage with an Executive Search Firm to assist with recruitment and/or selection of a new Registrar and CEO. This engagement process may include a request for proposals or quotations from individuals and firms qualified to conduct this search.
- d. With the assistance of the Executive Search Firm and the Director of Finance, People and Corporate Services, the Search Committee will determine the selection process that may include a panel interview, presentation or other such activities that will enable the committee to differentiate candidates and inform the selection process.
- e. The Search Committee shall present to the Board, for approval, the name and qualifications of a preferred candidate for the position and any recommendations related to the employment contract.
- f. The Executive Committee shall draft a negotiated employment agreement including compensation, benefits and start date.
- g. Once the employment contract has been agreed to and signed, system partners will be notified of the hiring of new Registrar and CEO:
 - i. College staff;
 - ii. Ministry of Health;
 - iii. The general public;
 - iv. Registrants;
 - v. Professional Associations (Canadian Association of Occupational Therapists, and Ontario Society of Occupational Therapists)
 - vi. Association of Canadian Occupational Therapy Regulatory Organizations

Transition into the Role of Registrar and CEO

1. There will be a formal transition and onboarding plan developed for the person entering either the interim and/or permanent Registrar and CEO position.
2. The Executive Committee will work closely with the Senior Leadership Team to ensure a smooth transition of the new Registrar and CEO.
3. If necessary, external resource assistance can be contracted by the Executive Committee in such areas as executive recruitment, human resources management, or legal advice.



Policy Type:	Governance Process
Policy Title:	Registrar Replacement
Reference:	GP18
Date Prepared:	March 2016
Date Revised:	
Date Reviewed	March 2019

It is the responsibility of Council to seek an individual to perform the role of Registrar in the event that the position becomes/will become vacant.

Accordingly,

1. Council shall appoint a Search Committee. The Search Committee will consist of a minimum of three Council members, one of whom will be a member of Executive and will act as Chair. The Search Committee shall be authorized to interview, evaluate, and recommend to Council the appointment of an individual as Registrar.
2. The Search Committee will determine the search process which may include an internal search, or an internal/external search. With the assistance of the Director of Finance and Corporate Services or senior staff, the Search Committee may issue a Request for Proposals from individuals and firms qualified to conduct a search on behalf of Council and make a recommendation to the College* to engage the successful individual or firm.
3. The Search Committee will determine the selection process that may include a panel interview, presentation or other such activities that will enable the committee to differentiate candidates and inform the selection process.
4. The Search Committee shall present to Council for approval, the name and qualifications of a preferred candidate for the position and any recommendations related to the employment contract.
5. The Executive Committee shall draft a negotiated employment agreement including compensation, benefits and start date.

**The College is the legal entity that can enter into an agreement with a third party, so therefore, an individual with signing authority of the College would ultimately authorize the engagement of an individual or firm to assist with the search.*

Policy Type:	Registrar Limitations
Policy Title:	Emergency Registrar Replacement
Reference:	RL9
Date Prepared:	December 2009
Date Revised:	March 2010, June 2022
Date Reviewed:	June 2016, June 2019

In order to protect the Board from sudden loss of Registrar services, the Registrar will designate a member of the senior leadership team familiar with the Board and Registrar issues and processes, to act when necessary.

Accordingly:

1. The designated leader may act in the absence of the Registrar until the Registrar returns, is permanently replaced or an interim Registrar is appointed.
2. The designated leader will not be expected to act in the absence of the Registrar for a period of longer than six months.
3. Alternatively, the leader may appoint an interim Registrar to exercise the powers and to perform the duties, powers and functions of the Registrar when the Registrar is absent or unable to act or when there is a vacancy in the office of the Registrar.
4. An interim Registrar may be expected to act in the absence of the Registrar for a period longer than six months.

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: Artificial Intelligence (AI) Practice Resource Document

Recommendation:

THAT the Board approve the practice resource document about the use of Artificial Intelligence (AI) in occupational therapy practice, for publication.

Issue:

The practice subcommittee has developed a resource document for occupational therapists on the topic of Artificial Intelligence (AI). The Executive Committee reviewed this document and has recommended that the Board now approve it to distribute to registrants.

Link to Strategic Plan:

- **Meaningful Engagement:** Engages registrants to build understanding of professional obligations, College programs and services.
- **Quality Practice:** Engages occupational therapists to advance quality practice and the delivery of safe effective, occupational therapy services.

Why this is in the Public Interest:

Issuing and updating Standards of Practice and resources for occupational therapists is a vital role of the College. The public needs to understand what they can expect from occupational therapists who use AI in their practice. Ensuring resources reflect evolving practice supports the safe, ethical, and competent practice of occupational therapists in Ontario.

Diversity, Equity, and Inclusion Considerations:

To advance quality and ethical practice, developing resource documents ensures public confidence in occupational therapy regulation. During this development process, careful consideration was given to diversity, equity, and inclusion (DEI) principles. The Competencies of Occupational Therapy Practice in Canada (2021) and Standards of Practice are incorporated as appropriate.

Background:

Recognizing that AI and technology is a rapidly growing field that can carry potential risks and benefits when used in occupational therapy practice, there is a need for the College to provide guidance to occupational therapists. The AI resource document will help occupational therapists understand the potential risks and benefits of using AI in practice and their professional responsibility to uphold the Standards of Practice and follow appropriate legislation.

The field of AI and technology is evolving rapidly and its use in health care is growing. The Canadian Association of Occupational Therapists (CAOT) did a scoping review and described potential benefits of AI that includes its capability to supplement assessment and intervention, promote client safety and independence, increase efficiencies with work tasks and empower clinical decision making.

The potential benefits of AI and technology make it an attractive option for occupational therapists in practice. However, there are also risks to using AI that occupational therapists should consider, including the privacy and accuracy of AI generated information and other ethical concerns. There have been calls from the Ontario government and the World Health Organization, to apply ethical and transparent principles to AI development and its use in health care practices. The Ontario government has proposed Bill 194 to address cybersecurity and AI systems in the public sector. The College does not currently have a practice resource for occupational therapists on AI and technology use.

Some other health regulators such as the College of Physiotherapists of Ontario, College of Registered Psychotherapists of Ontario, and the Royal College of Dental Surgeons of Ontario, have created AI resources for their registrants, in the form of an article or post. The College of Dieticians of Ontario has incorporated AI into their Code of Ethics.

Key themes of AI resources

- Risks of AI systems, such as data privacy and security, misleading, false or biased information
- Accountability and Standards need to be upheld
- Considerations for practice: consent, equity issues, ethical concerns and not a substitution for a clinician's critical thinking and decision-making

Discussion:

The public needs to understand what they can expect from occupational therapists who use AI in practice. Occupational therapists need to consider the potential risks and benefits of incorporating AI and ensure they are still upholding the Standards of Practice and follow applicable legislation.

Implications:

This document provides guidance for occupational therapists to understand the considerations and professional responsibilities for incorporating AI into their practice. If approved by the Board, it will be published on the website under Standards and Resources. The use of AI is constantly evolving. This resource may need to be updated to reflect up-to-date information or legislation that may come into effect.

Attachments:

1. Artificial Intelligence (AI) and Occupational Therapy Practice.

Q&A: What should Occupational Therapists consider if using Artificial Intelligence (AI) in Practice?

Artificial Intelligence (AI) refers to various technologies designed to simulate human thinking and learning. AI works by collecting information and using algorithms to learn, predict and make decisions. With its capability to perform certain automated tasks, the use of AI in daily life and in health care is growing.

AI and Occupational Therapy

Many AI technologies have emerged to support occupational therapy practice, but the decision to use AI requires some careful consideration. It is important to remember that occupational therapists are still expected to meet the Standards of Practice and follow appropriate legislation, such as the Health Care Consent Act and the Personal Health Information Protection Act.

AI only imitates human cognition and is not a substitute for an occupational therapist's experience, competence, or judgement. Occupational therapists are still responsible for the clinical decisions they make and the services they provide, even when it is augmented by AI.

The literature has identified several areas where AI can potentially support occupational therapists:

- **Assessment:** For example, wearable devices or sensors may provide occupational therapists with information when assessing a client's health.
- **Monitoring:** AI technology may be used to monitor a client's health status, activities or behaviour which can provide information to support occupational therapy intervention or a client's self management of their condition.
- **Intervention:** Some virtual reality technologies can mimic real life experiences which may be used as part of occupational therapy intervention. Smart home and voice-controlled personal assistants (for example, Alexa or Google Home devices) may help to support a client's ability to be independent in their home.
- **Administrative tasks:** AI that uses large language models (for example, Chat GPT) may assist occupational therapists by summarizing large amounts of information into shorter notes. There is digital scribe technology that can record sessions and transcribe verbal information to written notes.
- **Education:** AI technology may provide simulation opportunities or generate learning materials for the education of students, staff and caregivers.
- **Client motivation:** AI can provide personalized and motivational messages for clients and help them track progress towards their goals.

The potential benefits make AI an attractive option, with its capability to supplement assessment and intervention, promote client safety and independence, increase efficiencies with work tasks and empower clinical decision-making. Occupational therapists however must also keep in mind the risks of using AI.

Risks to Consider

- ✓ **Client impact:** Will AI impact the therapeutic relationship or compromise the care provided to the client? What is in the best interest of the client and does AI align with their goals? Does the client feel comfortable and trust AI and technology?
- ✓ **Privacy:** AI technologies may store or share information (including any personal health information) that is inputted into the system. It is important to understand the terms of use and privacy policies of the AI system being used and the risk of privacy breaches.
- ✓ **Accuracy and Reliability:** Information generated by AI may contain falsehoods or errors. These are known as AI “hallucinations”. Some AI systems generate incomplete or partial information which may be misleading. Other AI systems produce information without revealing the reasoning or sources behind its internal workings and decision making (this is known as the black-box effect).
- ✓ **Bias:** Information generated by AI may be biased. AI algorithms are based on data they have been trained to analyze and may not take into account other client factors such as gender, ethnicity, socio-economic status, environment, etc.
- ✓ **Equity:** AI tools that are available to the public at no charge may use more basic algorithms, in comparison to AI tools that require a paid subscription may have more advanced algorithms and technology. Occupational therapists should be aware of the potential disparities in accessing AI and possible impacts for those who do not have access to the most up to date technology.
- ✓ **Over-reliance:** Over-reliance on AI may lead to the erosion of critical thinking skills. AI should not be a substitute for an occupational therapist’s critical thinking and clinical judgement skills.

Professional Responsibilities

It is recommended that occupational therapists exercise caution and consider the following if integrating AI into their practice:

- ✓ **Be accountable:** Occupational therapists are held accountable for the service they provide and the documentation that they apply their signature to. Therefore, occupational therapists should ensure they have the competencies in using the technology and ensure they are adhering to the Standards of Practice, legislation and mitigating client risks.
- ✓ **Be critical:** Occupational therapists should critically evaluate the accuracy and reliability of AI-generated information. Information may be incorrect, biased, lack transparency or lack professional language and judgement. Occupational therapists must determine if they can rely on the information they gathered and be able to provide supporting rationale (i.e. assessment findings or treatment approaches) for their decision making.

- ✓ **Obtain Consent:** Occupational therapists must obtain client consent before incorporating AI into their service plan. If personal information is being entered into an AI tool, there should be clear communication with the client about the risks and benefits and how their information will be used and shared.
- ✓ **Maintain Privacy:** Occupational therapists are responsible for following the relevant privacy laws in their setting, such as the [Personal Health Information Protection Act, 2004 \(PHIPA\)](#). Occupational therapists should read and understand the privacy policies and terms of use for the AI tools they want to use and take reasonable steps to ensure security of client information. This may include avoiding the input of confidential information into AI tools.
- ✓ **Consider Ethical implications:** Occupational therapists should be mindful of biased AI information or disparities in access to technology that could promote or perpetuate inequities in health care.
- ✓ **Develop policies:** Occupational therapists are encouraged to collaborate with employers and seek legal consultation to develop policies surrounding AI use. For example, policies developed around consent and privacy can be shared with clients if questions arise in practice.

Summary

AI may be a useful adjunct in practice, but it does not replace the clinical judgement and decision-making of the occupational therapist. Occupational therapists deciding to use AI should keep privacy and ethical considerations in mind and ensure they are still following the Standards of Practice and applicable legislation.

Resources

[Bill 194, Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024 - Legislative Assembly of Ontario \(ola.org\)](#)

Canadian Medical Protective Association (2019). [The emergence of AI in health care.](#)

[CAOT Conversations that Matter Podcast: Episode 34, Artificial Intelligence in Occupational Therapy \(Feb 2024\)](#)

CAOT (n.d.). [Occupational Therapy, Artificial Intelligence & Technology.](#)

CAOT (2024) [OT PRACTICE DOCUMENT: ASSISTIVE TECHNOLOGY & ARTIFICIAL INTELLIGENCE \(caot.ca\)](#)

[Ontario's Trustworthy Artificial Intelligence \(AI\) Framework | ontario.ca](#)

[Principles for Ethical Use of AI \[Beta\] | ontario.ca](#)

[Principles for responsible, trustworthy and privacy-protective generative AI technologies - Office of the Privacy Commissioner of Canada](#)

[Montreal Declaration for a Responsible Development of Artificial Intelligence, 2018.](#)

World Health Organization (2021). [WHO issues first global report on AI in health and 6 guiding principles for its design and use](#)

World Health Organization (2023). [WHO calls for safe and ethical AI for health.](#)

DRAFT

BOARD MEETING BRIEFING NOTE

Date: October 24, 2024
From: Executive Committee
Subject: Response to Coroner's Request

Recommendation:

THAT the Board approve the proposed practice resource about the safe use of transfer poles.

Issue:

The College received a written request from the Chief Coroner's Office of Ontario to respond to a recommendation from the Geriatric and Long-Term Care Review Committee's (GLTCRC) report: 2021-2029 (GLTCRC 2023-16):

"This case should be forwarded to the College of Occupational Therapists to be included in education regarding safety of equipment used by persons with a risk of falls with or without dementia."

The request was to provide education to occupational therapists about the potential dangers of transfer poles for individuals at risk for falls, with or without dementia.

Link to Strategic Plan:

- Meaningful Engagement - The Colleges builds trust in its role and value through purposeful and meaningful engagement and collaboration:
 - Provides clear information about what to expect when working with occupational therapists.
 - Engages registrants to build understanding of professional obligations, College programs and services.
- Quality Practice - The College embraces leading regulatory practices to protect the public.
 - Engages occupational therapists to advance quality practice and the delivery of safe, effective occupational therapy services.

Why this is in the Public Interest:

The College, in carrying out its role, protects the public through effective regulation. The College can contribute to public safety by alerting, issuing and developing guidance for occupational therapists working in settings where this type of equipment may be recommended and there may be potential risks. Ensuring this information is available to all occupational therapists, clients and the public, supports the safe, ethical, and competent practice of occupational therapists in Ontario.

BOARD MEETING BRIEFING NOTE

Response to Coroner's Request

Page 2 of 2

Diversity, Equity, and Inclusion Considerations:

To advance quality and ethical practice, developing resource documents ensures public confidence in occupational therapy regulation. During this development process, careful consideration was given to diversity, equity, and inclusion (DEI) principles that align with the Competencies of Occupational Therapy Practice in Canada (2021) and Standards of Practice.

Background:

The College received the request late May 2024 and is required to respond to the Coroner by November 2024. As the response due date is November 2024, the Board is asked to review and provide final comments at the October meeting prior to submitting the College response to the Office of the Chief Coroner of Ontario.

Key themes of the resource as a response to the Coroner's request

- Defining Transfer Poles
- Assessment
- Evaluating the Risks
- Reflective Questions

Discussion:

This document provides considerations for occupational therapists if recommending transfer poles, to mitigate the risk of harm to clients.

Implications:

If the Board approves, the coroner will receive a copy of the resource for their records. This practice resource will be published in the monthly newsletter, on the website under Standards and Resources, and distributed through social media. This document will also serve as a resource for other health system partners to highlight the potential danger for entrapment for this device.

Attachments:

1. Coroner's letter to the College
2. Geriatric and Long-Term Care Review Committee's (GLTCRC) Report
3. Draft Coroner's request practice resource document.

Ministry of the Solicitor General

Ministère du Solliciteur général

Office of the Chief Coroner
Ontario Forensic Pathology Service

Bureau du coroner en chef
Service de médecine légale de l'Ontario



Forensic Services and
Coroners Complex
25 Morton Shulman Avenue
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Complexe des sciences judiciaires
et du coroner
25, Avenue Morton Shulman
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Via E-mail to: elarney@coto.org

May 21, 2024

Elinor Larney
College of Occupational Therapists of Ontario
20 Bay Street
Suite 900, PO Box 78
Toronto, ON M5J 2N8

Dear Elinor Larney:

Re: Geriatric and Long-Term Care Review Committee

OCC File No.: 2021-2029 (GLTCRC 2023-16)

Please find enclosed a copy of the report and recommendations prepared by the Geriatric and Long-Term Care Review Committee (GLTCRC) concerning the above-mentioned case.

The purpose of the Geriatric and Long-Term Care Review Committee is to assist the Office of the Chief Coroner in the investigation, review and development of recommendations towards the prevention of future deaths relating to the provision of services to elderly individuals and/or individuals receiving geriatric and/or long-term care within the province.

Upon reviewing this case and preparing recommendations towards the prevention of future deaths, the GLTCRC has indicated that your organization may be in a position to implement recommendation 5. I would appreciate your response to this recommendation by **November 21, 2024**.

If you feel the recommendation has been assigned incorrectly, your suggestions as to where to direct the recommendation would be greatly appreciated.

Please be advised that your response will be considered a public document and may be released to interested parties upon request.

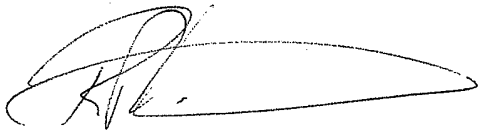
GLTCRC recommendations are not legally binding; however, we trust they will be given careful consideration for implementation and, if not implemented, that your organization provides an explanation.

Please direct your response to:

Executive Lead – Committee Management
Office of the Chief Coroner
occ.deathreviewcommittees@ontario.ca

Thank you for participating in this important process. Please contact us if you have any questions.

Yours truly,



Roger Skinner, MD CCFP(EM)
Regional Supervising Coroner
Modernization
Chair – Geriatric and Long-Term Care Review Committee



Rejean Duwyn MD CCFP(EM) FCFP
Regional Supervising Coroner
Operations

RS:cw

Enclosure



GERIATRIC AND LONG-TERM CARE DEATH REVIEW COMMITTEE

This document is produced pursuant to section 15(4) of the Coroners Act, R.S.O. 1990, c. 37, on the basis that it is to be used for the sole purpose of a Coroner's investigation, and not for any litigation or other proceedings unrelated to the Coroner's investigation. Moreover, the opinions expressed herein do not necessarily take into account all of the facts and circumstances surrounding the death. The final conclusions of the Coroner's investigation may differ significantly from the opinions expressed herein.

Date of Death: February 2, 2021

Age: 86 years

OCC file: 2021-2029 (GLTCRC 2023-16)

Reason for Review:

The committee was asked to review this case of an 86-year-old man who had unsteadiness and falls documented prior to his death. The decedent died in the early hours of February 2, 2021, from an external neck compression, as his neck was wedged between a support pole and his bed. A postmortem examination was completed which provided a cause of death as positional asphyxia.

Documents for Review:

- 1) Coroner's Investigation Statement
- 2) Retirement Homes Regulatory Association (RHRA) incident report February 2, 2021
- 3) RHRA Final Inspection Report dated February 11, 2021
- 4) Postmortem Examination Report
- 5) Home and Community Care Records
- 6) Photographs from the scene
- 7) Retirement Home records

History:

The decedent was an 86-year-old male who moved into a retirement residence with his wife on August 20, 2020. They were previously living in a different retirement home but moved due to his wife's dementia and wandering. The decedent's wife lived on the "enriched care" ward and the decedent lived in an independent suite. The plan was to have them share a room when available.

Past Medical History:

The decedent's past medical history includes a stroke in 2002, prostate cancer with transurethral resection of the prostate (TURP) in 1999, depression, glaucoma, bilateral cataract extractions, hearing impairment with bilateral hearing aids that he did not wear, atrial fibrillation, hypertension, dementia (Cognitive Performance Scale 2 score of 6/8), osteoarthritis of knees, sleep apnea not using continuous positive airway pressure (CPAP), hyperlipidemia, osteoporosis and degenerative disc disease of spine.

The decedent required assistance with dressing, bathing and toileting. The decedent was incontinent of bowel and bladder. He was able to feed himself with set up and used a walker for mobility. His medications were administered by staff. The decedent tended to be apathetic and withdrawn.

On August 28, 2020, the Home and Community Care Support Services (HCCSS) therapy assessment reported one fall on August 21, 2020, where the decedent slid to the floor from a chair. The therapist noted the decedent "struggles with transfers from bed, chair or toilet". They recommended a transfer pole by the bed and chair, and a Versa frame on toilet. The occupational therapist (OT) described him as withdrawn and angry. At the time of assessment, the decedent was refusing showers.

The OT reassessment on November 27, 2020, noted: "Staff pushed him in his wheelchair (WC) for longer distances. He used a walker in his room. He could hand/foot propel the WC himself for short distances."

In November 2020 Resident Assessment Instrument-Home Care (RAI-HC) indicated memory was severely impaired. The decedent was resistant to care at times. At the time of the assessment, the decedent was being taken to the dining room in the enriched care area to have meals with his spouse but "always wants to go back to bed". Described as speaking very little with extreme apathy. "Personal Support Workers (PSW) have attempted BID care (twice daily) for some time, but the decedent was refusing ++ (often). Therefore, service was reduced to three times per week for bathing, hygiene, and dressing. The decedent lacked the ability to do more for himself, he just lacks motivation."

The equipment required for the decedent included a transfer pole, Versa frame, step in shower, two grab bars, two wheeled walker (2WW), four wheeled walker (4WW), wheelchair and a call

bell (not able to use). By September 2020, the decedent was able to walk short distances but was very weak and he was mainly using a wheelchair. The decedent would not engage in physiotherapy.

The decedent had four children, two sons in Lindsay, and two daughters in Toronto. He was also on the waiting list for Long-Term Care (LTC).

Medications at the time of death:

- Calcium 500mg po daily
- Paroxetine 20 mg po daily
- Perindopril 2 mg po daily
- Pravastatin 20 mg po daily
- Vitamin D3 1 tab daily
- Xalacom eye drops given at 20:00 hours daily
- Apixaban 2.5mg po BID
- Simbrinza eye drops BID
- Tylenol prn

On review of the scene photos, it appears the decedent's dinner was delivered to the room and placed on his walker. It is untouched in the photos. According to the Medication Administration Record (MAR), the decedent received his 20:00 hours eye drops. Night checks were done at 01:00, 03:00 and 05:00 hours. (Although the night check sheet says 1:00, 3:00, 5:00 it is presumed this is "am").

On the morning of February 2, 2021 at 09:00 hours, the decedent's breakfast was delivered to his room. The decedent was found dead, on the floor, wedged between the bed and the transfer pole. The decedent was wearing his street clothes. 911 was called and emergency medical services (EMS) and fire department arrived. The decedent had a do not resuscitate (DNR) directive and resuscitation was not initiated. EMS remained on scene until the police arrived. The coroner was notified and arrived at 16:00 hours. A postmortem examination was requested.

Postmortem Examination Report:

The postmortem examination showed focal bruising of the left sternocleidomastoid muscle. Toxicology revealed a non-fatal concentration of paroxetine. The decedent died of positional asphyxia.

Medical Cause of Death: Positional asphyxia

Due to/as a consequence of: External neck compression. Fall from bed with neck compressed between bed and support pole.

Contributing factors: Recurrent falls and unsteadiness.

The RHRA inspection report found non-compliance in the following two areas:

1. At the time of the inspection, the Licensee failed to provide a plan of care that gives clear direction to staff for a resident regarding personal care and continence needs. The Licensee also failed to provide evidence of the approval of the plan of care by the resident or substitute decision maker.
2. At the time of the inspection, the Licensee failed to follow Directive #3 with regards to actively screening staff and visitors twice daily.

Discussion:

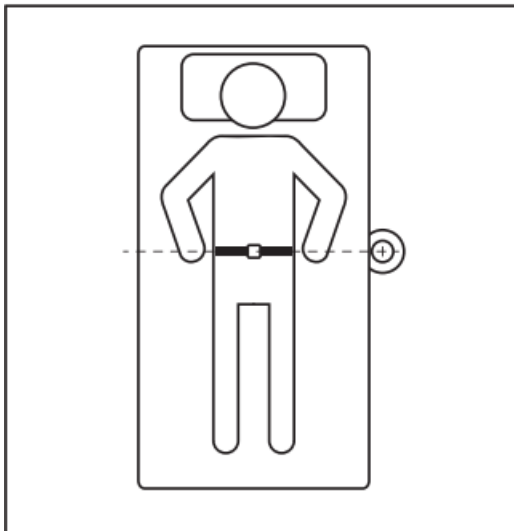
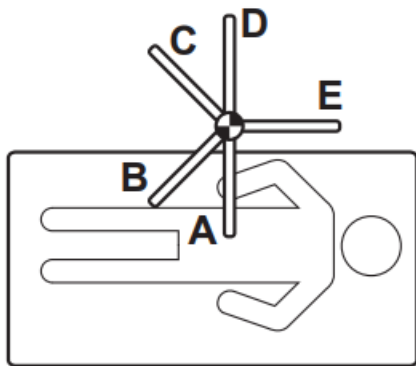
The decedent was an 86-year-old male with moderate-severe dementia (global deterioration scale (GDS) 6/7). He was cared for in a retirement home. The decedent mobilized with a walker for short distances and a wheelchair for longer distances. He was withdrawn and liked to stay in his bed. He was resistant to personal care assistance. The decedent had a home care safety assessment by an occupational therapist in November 2020 and a transfer pole was installed next to his bed to assist with transfers. The manufacturer's installation instructions are as follows:

Installation instructions from Healthcraft Super Pole System. (www.healthcraft.com)

GETTING STARTED... We strongly recommend that you give thought as to the optimal location of your SuperPole™ System before installation. The following questions may help you to decide upon a location: a. What motions will you be going through? (pulling up to standing, lowering to sitting, transferring from chair to toilet, etc.). b. Where will you need the most support? (while walking, while lifting, etc.) c. What is your strongest side/hand? d. What is your complete transfer path? Will the location allow for full support over most of your path of motion? e. Will the pole be far enough away to allow you to stand comfortably?

SUPERPOLE PLACEMENT FIGURE E. 1. BEDROOM - Locate pole adjacent to waistline, and as close to bed as possible while allowing clearance for bed coverings.
2. BATHTUB ONLY - Locate pole base against tub, approximately half way along its length
3. SEATING (TOILET or CHAIR) - To provide clearance when standing, locate pole 3-10" / 76mm-254mm forward of the knees, and 2-6" / 51mm-154mm to the side of knees when sitting.

Bedroom installation:



Photos from plumbing supply website on installation.



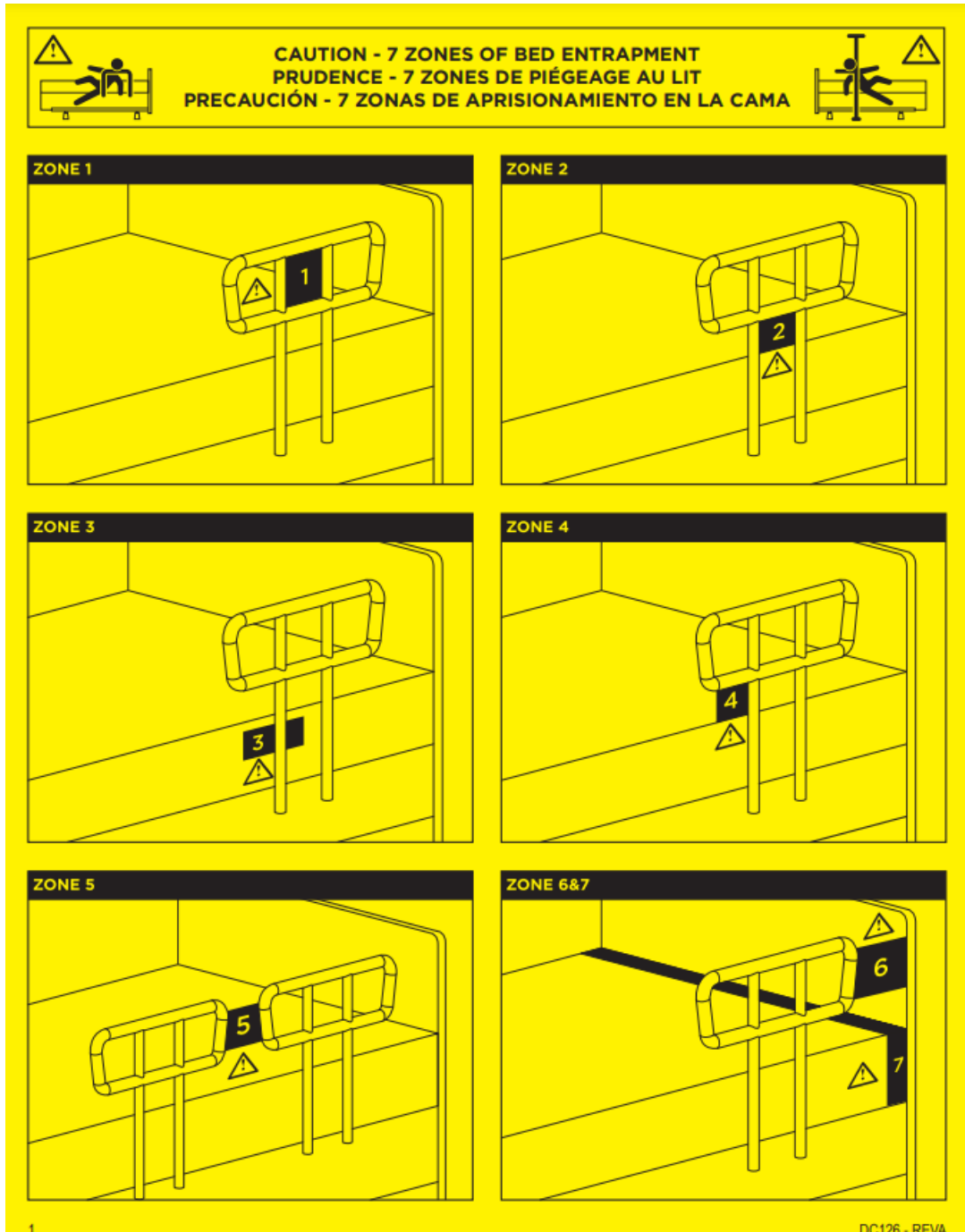
The manufacturers installation instructions do provide warning for potential bed entrapment:

“WARNING - PATIENT ENTRAPMENT (see additional guidelines) The potential risk of entrapment (limb, neck, head, torso) between the pole and adjacent item (i.e. bed, toilet, etc.) can be reduced or avoided by the following strategies: 1. Situate the pole at a distance that is considerably smaller or larger than that which could result in entrapment. 2. Consider situations that could change with time or usage such as mattress compression, patient movement, bed position changes due to electrically powered beds, etc. 3. Realize that this product is not intended as a physical constraint or barrier to exiting the bed.”

The manufacturers website provides more detail on potential entrapment:

“ZONE 3 - BETWEEN THE RAIL AND THE MATTRESS This area is the space between the inside surface of the bed rail and the mattress. If too large of a space it can cause a risk of head entrapment. FDA recommended space: less than 4.75" / 120mm. All HealthCraft bed rails include a safety strap that holds the bed rail tight against the side of the mattress. The safety strap must always be used to reduce the risk of injury or death. **Note that this gap may also be created by a fixed structure alongside a bed such as an I.V. pole or a floor to ceiling support pole. If a support pole is being used beside the bed, we recommend a pole gap of less than 2.375" / 60mm, or greater than 12" / 305mm.** (From Hospital Bed Safety Workgroup (HBSW) and the U.S.Food and Drug Administration (FDA))

Health Canada Bed Entrapment Guidelines recommend a less than 4 3/4" gap between the mattress and bed rail. This represents head width. Unable to find prescribed distance for prevention of entrapment with a transfer pole.



<https://healthcraftproducts.com/wp-content/uploads/2023/03/DC126-Bed-Entrapment-Prevention.pdf>

Despite the risk of entrapment with the pole close to the bed, the installation instructions do not provide a specific distance that the pole should be placed from the bed. This distance is only specified on the company website. The distance provided in the installation instructions is: “allowing clearance for bed coverings”. The more detailed entrapment instructions on the manufacturer’s website indicate: “a pole gap of less than 2.375" / 60mm, or greater than 12" / 305mm.” In 2013, the GLTCRC reviewed a similar case of positional asphyxia from a transfer pole where the decedent was trapped at chest level. The distance of 12 inches may not be sufficient to prevent entrapment at chest level for larger persons. There is no specific reference to entrapment by transfer poles on the Health Canada website.

The committee questioned the appropriateness of a transfer pole in a resident with moderate to severe dementia and a known history of falls. The level of care provided in a retirement home setting did not seem to meet his needs.

The RHRA inspection recommendations address deficiencies found with respect to the regulations but do not address any preventable causes of death.

Recommendations:

To the Regional Supervising Coroner:

1. This incident of entrapment and positional asphyxia related to a device, must be reported to Health Canada if not done so already under the mandatory reporting criteria.

To Health Canada:

2. The committee feels there is a lack of research into the safe use of assist poles in long term care, RHRA and private dwellings. Research into the use of assist poles is essential in determining overall safety profile of these devices. Health Canada should make recommendations for specific distances when installing transfer poles similar to recommendations for prevention of bed entrapment.
3. Manufacturers of transfer pole devices should provide specific measurements for installation in the instruction guide that accompanies the pole. The committee suggests that the pole be placed at a distance further than the width of the person using it and not close to the bed. Beds or furniture should be fixed or against a wall to prevent movement which might create an entrapment gap.
4. Instructions should include warnings of potential entrapment for devices used by persons with dementia and/or risk of falls.

To the College of Occupational Therapists:

5. This case should be forwarded to the College of Occupational Therapists to be included in education regarding safety of equipment used by persons with a risk of falls with or without dementia.

To the Retirement Homes Regulatory Authority (RHRA):

6. The RHRA should expand their mandate such that an incident review addresses the preventable causes of the incident and not just compliance with the regulations. The inspection system should be tied to legislation, safe environments and systems quality improvement.

References:

1. <https://healthcraftproducts.com/wp-content/uploads/2023/03/DC126-Bed-Entrapment-Prevention.pdf>
2. Health Canada: Incident reporting for medical devices: Guidance Document.

2024 College Response to the Coroner's Report:

Death from Transfer Pole

At the request of the Office of the Chief Coroner of Ontario, the Geriatric and Long-Term Care Review Committee (GLTCRC) released a report on a death where the use of a transfer pole was a contributing factor. In this report, the GLTCRC made six recommendations, including educating occupational therapists about the potential dangers involved with transfer poles.

Summary of Case Review:

The GLTCRC reviewed a case of an 86-year-old man who lived in a retirement home and who was assessed by an occupational therapist. Unsteadiness and falls were documented prior to his death. The resident died in February 2021 from an external neck compression, as his neck was wedged between a support pole and his bed. A postmortem examination was completed which provided the cause of death as positional asphyxia.

The Coroner listed the contributing factors:

- recurrent falls and unsteadiness
- moderate to severe dementia
- lack of adequate care to meet the client's needs

GLTCRC recommendation to the College:

To provide education regarding the safety of transfer poles that are used by persons with a risk of falls with or without dementia.

Use of transfer poles

A transfer pole, or "support pole," is a device used to assist with mobility challenges in moving from one position to another, such as from a bed to a chair or from a wheelchair to a toilet. It usually consists of a vertical pole secured between the floor and ceiling, often with adjustable height, and sometimes includes horizontal grab bars. Many medical supply stores sell transfer poles, which individuals can purchase themselves.

College Response:

Occupational therapists are trained healthcare professionals with the knowledge and skills to assess clients and their environments, identifying the risks and benefits of appropriate equipment to optimize safety and well-being. Their assessments provide the clinical rationale needed to support their recommendations.

As outlined in the [Standard for Assessment and Intervention](#), occupational therapists are expected to manage any risks as well as collaborate, and communicate with clients, other professionals, partners, and interested parties to support evidence-informed decision-making.

Occupational therapists can use or adapt the three-step example below as part of their assessment processes.

Step 1: Assess

- Does the client have a history of falls?
- What is the client's cognitive status?
- What is the client's mobility status?
- Is there the potential for fluctuation in cognitive or mobility abilities in the future?
- What transfer methods are being used with the client?
- Are there other factors to consider such as the bed type, mattress, other devices, or furniture the transfer pole may be positioned next to?
- Will the transfer pole present a barrier to client or other's mobility and function?
- If the pole is beside a bed, are there any gaps between the vertical pole component and the transfer surface? Is this an entrapment risk?
- Has a falls assessment been conducted?
- Has the impact of medication on the client's physical and cognitive abilities been considered?



Step 2: Analysis/Device Recommendations



- Is a transfer pole appropriate for the client and environment?
- Are there any contraindications for recommending a transfer pole for this client?
- Can the transfer pole be safely installed?
- Are there any manufacturer's recommendations for installation?
- If transfer pole is not appropriate has other equipment been considered?
- Are alternative solutions such as overhead bed trapeze, adjustable beds, or sensors being considered?
- Are there long-term care or retirement home policies that prohibit the device's installation?

Step 3: Reassess/Education



- Reassess the client using the installed transfer pole or recommended equipment
- Provide further training to the client and caregivers if necessary
- Do the client, caregivers, and support staff have the knowledge to identify any risks with the use of the transfer pole with the client?
- Is there a plan to monitor client's safety and use? Do caregivers and support staff have the capacity to regularly monitor the equipment? For example, adequate supervision or surveillance, alarm use, and availability of support staff.

Evaluating and Mitigating Risks

For client safety and in keeping with best practice, occupational therapists must identify and mitigate risks associated with recommending the use of any equipment including transfer poles.

General Benefits of Transfer Poles

- Promotes safety and independence with transfers and mobility
- Relatively easy to install and use
- Space-saving and cost-effective

Risks of Transfer Poles

- Individuals with cognitive/physical limitations may have challenges using it safely
- Improper installation and/or instability of the pole can increase the risk of falls
- Improper positioning can increase risk of entrapment
- Effective only for specific movements such as transferring between bed to chair
- Limited for use in environments with adequate space

Summary

The Office of the Chief Coroner of Ontario has requested the College educate occupational therapists about the dangers of transfer poles. The report strongly recommends that a risk assessment of a transfer pole be included as part of the occupational therapist's assessment. It is important that occupational therapists adopt a risk-based approach and collaborate with all parties involved, including the client, their family, and other healthcare professionals, prioritizing the client's goals, addressing safety concerns, and providing education to prevent any future deaths from the use of this type of equipment.

Attachments:

1. Geriatric Long Term Care Review Committee Report and Letter
2. [Standards of Practice](#)

