

DETERMINATION OF GOOD CHARACTER OF AN APPLICANT OR MEMBER



Policy P-054
Registration Committee
Approved by Council: April 22, 2015

Note to readers: In the event of any inconsistency between this document and the legislation that affects chiropractic practice, the legislation governs.

INTENT

To outline the considerations in determining if an applicant or member meets the good character requirements of Regulation 137/11 (Registration Regulation)

DESCRIPTION OF POLICY

Introduction

CCO's Registration Regulation has several requirements that are collectively known as the "good character" requirement. These requirements read as follows:

Section 3 (in part)

- The applicant's past and present conduct must afford reasonable grounds for belief that the applicant,
- i. is mentally and physically competent to practise chiropractic,
 - ii. will practise chiropractic with decency, integrity, honesty and in accordance with the law,
 - iii. has sufficient knowledge, skill and judgment to engage in chiropractic, and
 - iv. will display professional behaviour.

Section 4

Every applicant is required to provide the College with details of the following with respect to the applicant that occur or arise after the applicant has submitted his or her application, and if the applicant becomes a member, it is a condition of the member's certificate of registration that he or she provide such details:

1. A finding of professional misconduct, incompetence or incapacity or similar finding in Ontario in relation to another health profession or in any other jurisdiction in which the applicant is registered or licensed to practise chiropractic or another health profession.
2. An investigation or proceeding for professional misconduct, incompetence or incapacity or similar finding in Ontario in relation to another health profession or in any other jurisdiction in which the applicant is registered or licensed to practise chiropractic or another health profession.

3. A finding of guilt in relation to any offence.

The purpose of these requirements is to protect the public through the maintenance of high ethical standards and ensuring that an applicant for registration meets those standards.

Applicants for registration and members are required to self-disclose any past and current findings of professional misconduct, incompetence, incapacity, professional negligence or malpractice, and offences (“conduct”).

If an applicant discloses this conduct, the Registrar will refer the applicant to the Registration Committee for a determination of whether the applicant meets the good character requirements.

If a member discloses this conduct, the Registrar will refer the member to the Inquiries, Complaints and Reports (ICR) Committee for a determination of whether the member requires remedial or disciplinary measures. In addition, the Registrar can administratively revoke a member’s certificate of registration where he or she made a false or misleading statement in his/her application for registration or on any form related to his/her renewal or reinstatement of registration.

It is important, therefore, for applicants and members to recognize that declaring conduct does not automatically disqualify an applicant from registration or automatically result in disciplinary action. The consequence of the conduct depends on all of the circumstances of the case. It is helpful for applicants and members to provide full and accurate details of the conduct and to offer as much relevant information as possible on subsequent events.

CCO reminds applicants and members that information provided on the registration and renewal forms must be true and complete and that it may demonstrate unsuitability to become a member or be considered an act of professional misconduct to provide false information to CCO.

This policy outlines the considerations and procedures in determining if an applicant or member meets the good character requirements of the Registration Regulation.

Considerations

Nature of Conduct

The Registration or ICR Committee will consider a number of factors related to the nature of the finding, including but not limited to:

- is the conduct a criminal offence;
- does the conduct relate to the practice of chiropractic or another regulated health profession;
- was there a termination, suspension or limitation of employment or studies as a result of this conduct; and
- was there a revocation, suspension or limitation of a professional licence, or a denial of a licence or certificate of registration as a result of this conduct.

Does the Conduct Reflect the Suitability of the Applicant to Practise Chiropractic

The Registration or ICR Committee will consider a number of factors in determining if the conduct affects suitability to practise, including but not limited to:

- nature of the conduct, including the degree of dishonesty or breach of trust;
- motivation;
- duration;
- isolated or repeated incident;
- prior history and/or warning;
- concealment;
- intoxication or impairment; and
- issues related to physical or mental capacity.

Subsequent Conduct

The Registration or ICR Committee will consider a number of factors relevant to the subsequent conduct of the applicant or member, including but not limited to:

- has the applicant or member recognized the inappropriateness of the conduct and accepted responsibility for it;
- has the applicant or member implemented changes to prevent a repetition of the conduct;
- how long ago the conduct occurred and subsequent demonstration of good character since; and
- has the applicant or member participated in any treatment, education or other activity to address the conduct.

Procedure

In considering the conduct as it relates to the registration of the applicant, the Registration or ICR Committee may request additional information from the applicant or member, including but not limited to:

- a detailed account of the conduct;
- relevant documents related to the conduct (e.g., court documents, regulatory files);
- an explanation from the applicant;
- evidence of prior and subsequent behaviour;
- a completed professional portfolio detailing past work history, volunteer work, education and continuing education and professional development;
- reference letter(s) from past employers, professional colleagues and other sources;
- letter(s) of good standing from regulators where the applicant practised chiropractic or another health profession;
- current police check;
- details of actions taken to address the conduct; and

- any other relevant documents

Following consideration of all relevant information, the Registration Committee may:

- Register the applicant;
- Register the applicant with terms, conditions and limitations;
- Register the applicant, after requiring the applicant to sign an undertaking agreeing to terms conditions and limitations;
- Defer the decision pending receipt of additional information; or
- Not register the applicant

The ICR Committee may take any action consistent with its powers under section 26 of the Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*.

LEGISLATIVE CONTEXT

Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*

26 (1) A panel, after investigating a complaint or considering a report, considering the submissions of the member and making reasonable efforts to consider all records and documents it considers relevant to the complaint or the report, may do any one or more of the following:

1. Refer a specified allegation of the member's professional misconduct or incompetence to the Discipline Committee if the allegation is related to the complaint or the report.
2. Refer the member to a panel of the Inquiries, Complaints and Reports Committee under section 58 for incapacity proceedings.
3. Require the member to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned.
4. Take action it considers appropriate that is not inconsistent with the health profession Act, this Code, the regulations or by-laws. 2007, c. 10, Sched. M, s. 30.

Prior decisions

(2) A panel of the Inquiries, Complaints and Reports Committee shall, when investigating a complaint or considering a report currently before it, consider all of its available prior decisions involving the member, including decisions made when that committee was known as the Complaints Committee, and all available prior decisions involving the member of the Discipline Committee, the Fitness to Practise Committee and the Executive Committee, unless the decision was to take no further action under subsection (5). 2007, c. 10, Sched. M, s. 30.

Quality assurance

(3) In exercising its powers under paragraph 4 of subsection (1), the panel may not refer the matter to the Quality Assurance Committee, but may require a member to complete a specified continuing education or remediation program. 2007, c. 10, Sched. M, s. 30.

Reporting by members re: offences

85.6.1 (1) A member shall file a report in writing with the Registrar if the member has been found guilty of an offence. 2007, c. 10, Sched. M, s. 63; 2009, c. 26, s. 24 (15).

Timing of report

(2) The report must be filed as soon as reasonably practicable after the member receives notice of the finding of guilt. 2007, c. 10, Sched. M, s. 63.

Contents of report

(3) The report must contain,

- (a) the name of the member filing the report;
- (b) the nature of, and a description of the offence;
- (c) the date the member was found guilty of the offence;
- (d) the name and location of the court that found the member guilty of the offence; and
- (e) the status of any appeal initiated respecting the finding of guilt. 2007, c. 10, Sched. M, s. 63.

Publication ban

(4) The report shall not contain any information that violates a publication ban. 2007, c. 10, Sched. M, s. 63.

Same

(5) No action shall be taken under this section which violates a publication ban and nothing in this section requires or authorizes the violation of a publication ban. 2007, c. 10, Sched. M, s. 63.

Additional reports

(6) A member who files a report under subsection (1) shall file an additional report if there is a change in status of the finding of guilt as the result of an appeal. 2007, c. 10, Sched. M, s. 63.

Reporting by members re: professional negligence and malpractice

85.6.2 (1) A member shall file a report in writing with the Registrar if there has been a finding of professional negligence or malpractice made against the member. 2007, c. 10, Sched. M, s. 63; 2009, c. 26, s. 24 (16).

Timing of report

(2) The report must be filed as soon as reasonably practicable after the member receives notice of the finding made against the member. 2007, c. 10, Sched. M, s. 63.

Contents of report

(3) The report must contain,

- (a) the name of the member filing the report;
- (b) the nature of, and a description of the finding;
- (c) the date that the finding was made against the member;
- (d) the name and location of the court that made the finding against the member; and
- (e) the status of any appeal initiated respecting the finding made against the member. 2007, c. 10, Sched. M, s. 63.

Publication ban

(4) The report shall not contain any information that violates a publication ban. 2007, c. 10, Sched. M, s. 63.

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Additional reports

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Ontario Regulation 137/93 under the Chiropractic Act, 1991

Section 2

2. A person shall apply for a certificate of registration by submitting a completed application in the provided form together with the applicable fees under the by-laws.

Section 3

3. The following are registration requirements for a certificate of registration of any class:
1. If the applicant has previously been or is registered or licensed to practise another health profession in Ontario, or chiropractic or another health profession in any other jurisdiction, the applicant must provide evidence that there has been no finding of, and that there is no current investigation or proceeding involving an allegation of, professional misconduct, incompetence or incapacity or similar conduct....
 4. The applicant's past and present conduct must afford reasonable grounds for belief that the applicant,
 - i. is mentally and physically competent to practise chiropractic,
 - ii. will practise chiropractic with decency, integrity, honesty and in accordance with the law,
 - iii. has sufficient knowledge, skill and judgment to engage in chiropractic, and
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Section 4

4. Every applicant is required to provide the College with details of the following with respect to the applicant that occur or arise after the applicant has submitted his or her application, and if the applicant becomes a member, it is a condition of the member's certificate of registration that he or she provide such details:
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Section 5

5. The Registrar may revoke the member's certificate of registration if the member made a false or misleading statement in his or her application for registration or on any form related to his or her renewal or reinstatement of registration.

By-law 17: Public Register

17.7 If requested, the member shall immediately provide the College with the following information, in the form requested by the College:

- (i) information about any finding of professional misconduct or incompetence or similar finding that has been made against the member by a body that governs a profession, inside or outside of Ontario, where the finding has not been reversed on appeal, including:
 - (i) the finding,
 - (ii) the name of the governing body that made the finding,
 - (iii) a brief summary of the facts on which the finding was based,
 - (iv) the penalty and any other orders made relative to the finding,
 - (v) the date the finding was made, and
 - (vi) information regarding any appeals of the finding.
- (j) information about any finding of incapacity or similar finding that has been made against the member by a body that governs a profession, inside or outside of Ontario, where that finding has not been reversed on appeal, including:
 - (i) the finding
 - (ii) the name of the governing body that made the finding,
 - (iii) the date the finding was made,
 - (iv) a summary of any order made, and
 - (v) information regarding any appeals of the finding.
- (k) information about the member's participation in the Quality Assurance Program,
- (l) information for the purpose of compiling statistical data,
- (m) information about any finding by a court made after June 3, 2009 that the member is guilty of any of the following:
 - (i) an offence under the *Criminal Code of Canada*;
 - (ii) an offence related to prescribing, compounding, dispensing, selling or administering drugs;
 - (iii) an offence that occurred while the member was practising or that was related to the practice of the member (other than a municipal by-law infraction or an offence under the *Highway Traffic Act*);
 - (iv) an offence in which the member was impaired or intoxicated; or
 - (v) any other offence relevant to the member's suitability to practise the profession.
- (n) information about any finding by a court made after June 3, 2009 of professional negligence or malpractice against the member.

