



PEICOT

Policies & Procedures

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**Criminal Records Check –
Applicant with a Criminal
Record**

POLICY TITLE: CRIMINAL RECORDS CHECK – APPLICANT WITH A CRIMINAL RECORD

One of the main roles of the PEI College of Occupational Therapists (PEICOT) is to protect the public. The Regulated Health Professions Act states a number of eligibility criteria for an applicant to be registered including 12 (2) (h) that an applicant has not been found guilty of an offense that renders them unsuitable to practice in a regulated health profession.

An applicant must disclose information about themselves and their practice of occupational therapy (or of any other profession) whether in Prince Edward Island or in another jurisdiction for a conviction of an offense under: a) the “Criminal Code” (Canada), the “Controlled Drugs and Substances Act” (Canada), or the “Food and Drugs Act” (Canada), or b) a criminal or penal statute of a jurisdiction outside Canada that is, or may be, relevant to their suitability to practise.

A personal criminal records search, including a vulnerable sector search, is required at the time of initial registration; PEICOT will accept a report that was produced no earlier than 6 months prior to the date of application.

Declaration regarding criminal conviction is required on initial registration and at the time of annual renewal.

Disclosure regarding criminal conviction is required in as timely a manner as possible consistent with professional responsibilities.

Where a Criminal Record is Disclosed

1. Where PEICOT becomes aware that an applicant has a criminal conviction, PEICOT members will:
 - (a) report the matter to the Registrar; and
 - (b) require the applicant/member to provide a current criminal records check, and a criminal records transcript based on fingerprinting.

3. The applicant/member will be asked to provide the following additional information:
 - (a) type of conviction,
 - (b) date of conviction,
 - (c) date of offence,
 - (d) specific nature of the offence and description of circumstances of the offence,
 - (e) penalty imposed.

4. The applicant/member may also be asked to provide:
 - (a) satisfactory references,
 - (b) documentary evidence of rehabilitation efforts,
 - (c) a copy of any pardon granted.

Criminal Convictions

5. Where PEICOT becomes aware that an applicant has a history of criminal conviction(s), the information provided and/or obtained shall be assessed according to the following criteria to determine eligibility for initial registration, reinstatement of registration, conversion of registration or renewal of registration:
- a). The nature and frequency of the offence. For example:
 - did the offence occur when the applicant was in a position of trust?
 - does the offence demonstrate dishonest behaviour?
 - does the offence demonstrate behaviours that would be considered professional misconduct, conduct unbecoming or other breach of *The Regulated Health Professions Act* or the Code of Ethics?
 - b). The penalty imposed and whether that penalty has been satisfied.
 - c). Whether the behaviour, if repeated, poses a threat to client safety and/or to an employer's ability to operate safely and efficiently. For example:
 - convictions related to sexual assault, violence or use of a weapon may cause the individual to be ineligible for registration (e.g. physical or sexual abuse, sexual assault, armed robbery, etc.);
 - convictions related to honesty and integrity may cast doubt on character and ethical conduct (e.g. fraud, theft, repeated shoplifting, etc.);
 - convictions related to drugs and alcohol may indicate a health problem or an ethical concern (e.g. trafficking, repeated impaired driving convictions, etc.);
 - multiple convictions may suggest a pattern of conduct.
 - d). The circumstances of a conviction, particulars of the offence, or other applicable information. For example:
 - the age of the individual when the offence occurred,
 - the situation of the offender at the time of the offence,
 - extenuating circumstances.
 - e). Demonstration of successful efforts made at rehabilitation and other factors which eliminate or reduce the likelihood of recurrence. For example:
 - how much time has elapsed between the conviction and the application;
 - what has the individual done during that period of time.
 - f). Accomplishments of the individual since the incident(s). For example:
 - has the individual shown any tendency to repeat the kind of behaviour for which they were convicted;
 - has the individual shown a firm intention to rehabilitate themselves;
 - has the individual applied for/received a pardon.
 - g). Whether there is any connection between the conviction and occupational therapy practice.

Authority of Registrar

6. The Registrar may make a decision without consultation with the Registration Committee where an applicant has disclosed a criminal conviction and the following criteria are met:
- (a) the conviction is impaired driving, theft under \$1,000.00, or marijuana related, excluding trafficking; and
 - (b) the conviction is for a single occurrence and single offence; and
 - (c) the conviction occurred more than four years before the current application for registration; and

- (d) there are no outstanding conditions such as completion of sentence, probationary period, etc.; and
- (e) satisfactory references, supporting documentation of rehabilitation efforts and accomplishments since the offence are received; and
- (f) there are no special circumstances warranting the attention of the Registration Committee.

7. In all other circumstances, the Registrar shall request the Registration Committee to review the application and make recommendations about the eligibility of the applicant for registration, including but not limited to, any conditions which should be placed on the registration.

8. If an applicant is not able to obtain and provide a criminal history report in a timely manner (as may be the case when finger-print matching is required before a criminal history report can be produced), at the discretion of the registrar, the applicant may be registered "with conditions". The conditions will be that:

- a. the applicant will be required to provide a criminal history report as soon as it becomes available;
- b. the registrar will notify the applicant's employer that the applicant is registered with conditions, and the nature of the condition;
- c. the applicant's file will be flagged for review in 3 months.

The registrar may request other documents such as an outdated criminal history report, or personal reference when a current criminal history report is unavailable.

Outstanding Court Conditions

9. When information is received which indicates an applicant has a criminal conviction(s) and the conditions of the court have not been met, the application may be delayed until acceptable evidence is submitted indicating the court conditions have been satisfied.

Right of Appeal

10. An applicant who is deemed ineligible for registration by the Registration Committee as a result of their criminal history record report may appeal the decision to the Council of the PEICOT for internal reconsideration, whose decision shall be final and binding on the applicant and the PEICOT.

Note * Applicant in this policy refers to both an applicant for initial registration with PEICOT and an applicant for annual renewal.