



POLICIES & PROCEDURES

POLICY TITLE:

Criminal Record Check

DATE CREATED: October 2020**DATE APPROVED:** November 1, 2020**DATE REVISED:****CATEGORY:** Registration**AUTHORITY:** RHPA/Physiotherapy Regulations

POLICY

All applicants submitting an initial application to the PEI College of Physiotherapy (PEICPT) must submit a Criminal Records Check, including a Vulnerable Sector Check followed by an annual declaration (Appendix A) and a five-year recheck for active college registrants.

DEFINITIONS

Applicant: Refers to an applicant for initial registration with PEICPT and an applicant for annual renewal

PURPOSE

The Regulated Health Professions Act provides that the college govern its members in a manner that serves and protects the public interest (s.4(1)). One requirement is that an applicant must not have been found guilty of an offence that would, in the council's opinion, render the applicant unsuitable to practice in the regulated health profession (s.12(2)(h)). In order to prove compliance a Criminal Records Check, including a Vulnerable Sector Check must be submitted in accordance to this policy.

APPLICATION

This policy applies to all members of the PEICPT and applicants to the PEICPT.

PROCEDURES

1. The Criminal Record Check must include the Vulnerable Sector Check and be completed no more than three (3) months prior to the date of application to the PEICPT. The report must also indicate that a search was conducted under all current, previous, former or maiden names of the applicant.
2. The original copy of the Criminal Record Check must be submitted to the Registrar of the PEICPT.
3. For applicants who have lived outside of Canada and who have undergone a security check by the federal government as a condition of immigration, a criminal record check from the applicant's home jurisdiction is not necessary. Security checks conducted by the federal government occur before the individuals are granted visas and are more thorough than what can be provided by the applicant. Anyone with a permanent resident card has undergone a federal security check. Criminal Records Check for an applicant's time in Canada are fair.
4. The Criminal Record Check may require a few days to several weeks to process and there may be a cost involved, which is the responsibility of the applicant.
5. Following initial registration, all members will be required to provide an updated Criminal Record Check, including Vulnerable Sector Check, every 5 years.
6. A yearly declaration must be completed by renewal applicants to confirm there have been no criminal offenses committed in the previous year.

Where a Criminal Record is Disclosed

7. If an applicant knows they have a criminal record, they should contact the Registrar to discuss the issue. A criminal record does not automatically mean they cannot be registered with PEICPT.
8. If the report indicates a criminal finding, applicants must submit a detailed explanation of the circumstances that led to the criminal finding. Applicants 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 circumstance of the offence,
 - e. Penalty imposed.

The applicant may also be asked to provide:

- a. Satisfactory references,
- b. Documentary evidence of rehabilitation efforts,
- c. A copy of any pardon granted.

Criminal Convictions

9. Where PEICPT 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:
 - i. Did the offence occur when the applicant was in a position of trust?
 - ii. Does the offence demonstrate dishonest behaviour?
 - iii. 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:
 - i. 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.);
 - ii. Convictions related to honesty and integrity may cast doubt on character and ethical conduct (e.g. fraud, theft, repeated shoplifting, etc.);
 - iii. Convictions related to drugs and alcohol may indicate a health problem or an ethical concern (e.g. trafficking, repeated impaired driving convictions, etc.);
 - iv. Multiple convictions may suggest a pattern of conduct.
 - d. The circumstances of a conviction, particulars of the offence, or other applicable information. For example:
 - i. The age of the individual when the offence occurred;
 - ii. The situation of the offender at the time of the offence;
 - iii. Extenuating circumstances.
 - e. Demonstration of successful efforts made at rehabilitation and other factors which eliminate or reduce the likelihood of recurrence. For example:
 - i. How much time has elapsed between the conviction and the application;

- ii. What has the individual done during that period of time.
- f. Accomplishments of the individual since the incident(s). For example:
 - i. Has the individual shown any tendency to repeat the kind of behaviour for which they were convicted;
 - ii. Has the individual shown a firm intention to rehabilitate themselves;
 - iii. Has the individual applied for/received a pardon.
- g. Whether there is any connection between the conviction and physiotherapy practice.

Authority of Registrar

10. The Registrar may make a decision without consultation with the council where an applicant has disclosed a criminal conviction and the following criteria are met:
- a. The conviction is impaired driving or theft under \$1,000.00; 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 reference, supporting documentation of rehabilitation efforts and accomplishments since the offence are received; and\there are no special circumstances warranting the attention of the council.
11. In all other circumstances, the Registrar shall request the council 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.
12. 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 conditions;
 - c. The applicant’s file will be flagged for review in three (3) months.

The Registrar may request other documents such as outdated criminal history report(s), or personal reference when a current criminal history report is unavailable.

Outstanding Court Conditions

13. When the 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

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

APPENDIX A (SAMPLE)

STATUTORY DECLARATION

I _____, solemnly declare that that in the last year I have not been convicted of an offence under the Criminal Code (of Canada), the: Criminal Code (Canada), the Controlled Drugs and Substance Act (of Canada), or the Food and Drugs Act (of Canada); or a criminal or penal statute of a jurisdiction outside of Canada.

Applicant's Signature: _____ Date: _____

OR

I am unable to complete the declaration as stated above (Please complete the following section):

I _____, solemnly declare that:

1. I have applied to the College for registration;
2. I understand that pursuant to s. 4(1) and s. 12(2)(h) of the *Regulated Health Professions Act* and the PEI College of Physiotherapy *Criminal Record Check Policy*, I must disclose to the College information about a conviction for an offence under:
 - a) the Criminal Code (of Canada), the Controlled Drugs and Substance Act (of Canada), or the Food and Drugs Act (of Canada), or
 - b) a criminal or penal statute of a jurisdiction outside of Canada that is, or may be, relevant to my suitability to practice.

3. On the ___ day of _____, _____, I was convicted of the following offense:

4. I have provided a full and complete description of all material aspects of the background and the disposition of the matter relating to the aforesaid criminal conviction to the College.

5. I understand that my registration may be cancelled pursuant to 25(3) of the *Regulated Health Professions Act* if I provide a false or fraudulent representation to the College.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if I made under oath and by virtue of the "Canada Evidence Act."

Signature of Applicant: _____ Date: _____