

Duty to Report

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Descriptions of the words **bolded** in this guideline can be found in the glossaries of the ACOT [Standards of Practice](#) and [Code of Ethics](#).

1. Background

This guideline has been developed to support occupational therapists (OTs) registered with the Alberta College of Occupational Therapists (ACOT) in understanding mandatory reporting as outlined in the *Health Professions Act* (HPA) and some relevant legislation.

The guidance offered in this practice guideline elaborates on reporting expectations which are woven throughout the ACOT [Standards of Practice](#) (SoP), [Code of Ethics](#) (CoE) and the nationally adopted [Competencies for Occupational Therapists in Canada](#) (see [Appendix A](#) for the full listing of related clauses).

Given that not all relevant legislation or practice situations that a **registrant** may encounter are outlined in this document, it is important for registrants to take action to be knowledgeable of and practice in accordance with legislation relevant to their practice situation (ACOT Standard A.2; Competency E.1). Registrants are expected to exercise their independent judgement (ACOT Code of Ethics A.4) when determining when it may be necessary to breach confidentiality and notify someone when there is a substantial **risk** of harm to the **client** or other person(s). In all aspects of reporting or notifying, registrants are expected to engage in **equity-focused approaches** (ACOT Standard B).



2. Duty to Self-Report

Section 127.1(1) of the HPA requires Occupational Therapists to self-report the following information to the ACOT registrar, as soon as reasonably possible:

- If they are a member of another college that has determined that they have engaged in unprofessional conduct, the ACOT registrant must report the decision and provide a copy of the decision from the other college.
- If an OT governing body in another jurisdiction has made a decision of unprofessional conduct in the other jurisdiction, the ACOT registrant must report the decision and provide a copy of the decision from the other jurisdiction.
- Any finding of professional negligence against the registrant must be reported in writing to the registrar of ACOT.
- If the regulated member has been charged with or convicted of an offence under the Criminal Code (Canada), this must be promptly reported to ACOT in writing by the registrant.

Additionally, as outlined in ACOT's Bylaws and in sections 29.1(1) and 40(1)(d.) of the HPA, ACOT requires registrants to complete declarations of good standing/good reputation during the practice permit application and renewal processes. These statements include declaring whether the applicant:

- Is currently undergoing an investigation or subject to an unprofessional conduct process (with ACOT or any other regulatory body); or have been previously disciplined by another regulatory body responsible for the regulation of occupational therapists or any other profession.
- Has ever pleaded guilty or been found guilty of a criminal offence in Canada or an offence of a similar nature in a jurisdiction outside of Canada for which they have not been pardoned.
- Has ever been found guilty of unprofessional conduct in any profession or jurisdiction.
- Has ever had conditions imposed on their practice permit in any profession or jurisdiction.
- Has ever had a judgment against them in a civil action with respect to their practice.

3. Duty to Report Conduct of Other Regulated Professionals

Under section 127.2 of the *Health Professions Act*, if an ACOT registrant, acting in their professional capacity, has reasonable grounds to believe that the conduct of another regulated professional of any college constitutes:

- procurement or performance of **female genital mutilation**,
- **sexual abuse**, or
- **sexual misconduct**,

the ACOT registrant must report the conduct to the complaints director of the other regulated professional's college.

Reporting of this nature (specific to s. 127.2 of the HPA) is not required if the information respecting the conduct of the other regulated professional was obtained in the course of the OT providing professional services to the other regulated professional.

4. Other Reporting Requirements

Suspected Abuse of Persons in Care

The [*Protection for Persons in Care Act*](#) (PPCA) provides safeguards against abuse for adults receiving services from publicly funded care agencies and outlines the duty to report abuse.

Abuse is defined in the PPCA, section 1(2), as an act or an omission with respect to a client receiving care or support services from a service provider that causes serious bodily harm or emotional harm; results in the administration, withholding or prescribing of medication for an inappropriate purpose, resulting in serious bodily harm; subjects the individual to non-consensual sexual contact, activity or behaviour; involves misappropriation or improper/illegal conversion of significant amounts of money or other valuable possessions; or results in failing to provide adequate nutrition, medical attention or another necessity of life without a valid consent, resulting in serious bodily harm.

Abuse must be reported as soon as reasonably practical and should be done as per the Alberta Government.¹ Reports of abuse that involve a regulated health professional may be made directly to the applicable regulatory college. A report of abuse must

¹ [Report abuse to Protection for Persons in Care | Alberta.ca](#)

include the name and contact information of the complainant (i.e., as the OT making the report of abuse this is your name and contact) and reasonable particulars of the incident. It can be done orally or in writing. As outlined in the PPCA, making a report of abuse that is false, malicious or without reasonable grounds is an offence and liable to a fine. Refer to the Government of Alberta website: [Report Abuse to Protection for Persons in Care](#) for more information on the process and requirements.

Children in Need of Intervention

Where a registrant is concerned for the safety, security or development of a child, a legal duty to report may arise. While some specific legal considerations apply when working with Indigenous children and families (which will be discussed below), in any emergency situation where you believe a child needs immediate intervention, you should call 911.²

Working with Non-Indigenous Children and Families

Anyone with reasonable and probable grounds to believe that the safety, security or development of a non-Indigenous child is endangered for any of the reasons outlined in the [Child, Youth and Family Enhancement Act](#) (CYFEA), must promptly report the matter to a director (as defined in the CYFEA) or a police officer (sections 1(2), 1(2.1), 1(2) and 4(1)).

Per section 4(4) of the CYFEA, no action lies against the reporting person unless the reporting was done maliciously or without reasonable and probable grounds for the belief. However, if a person has reasonable and probable grounds to believe the child's safety, security or development was endangered and they did not act, they are to be reported to their professional college (CYFEA section 4(5)) and may be guilty of an offence and liable to a fine or imprisonment as described in section 4(6) of the CYFEA.

Detailed information on reporting children in need of intervention, including what happens after a report is made, can be found on the Alberta Government website.³

² [How to help and report child abuse, neglect and sexual exploitation | Alberta.ca.](#)

³ [How to help and report child abuse, neglect and sexual exploitation | Alberta.ca.](#)

Working with Indigenous Children and Families

An Act respecting First Nations, Inuit and Métis children, youth and families (Bill C-92) establishes national standards for the welfare of Indigenous children. The national standards were prompted by the [Truth and Reconciliation Commission](#)'s calls to action (particularly call to action #4), and represent an attempt to address the over-representation of Indigenous children in care. Of relevance to registrants, section 15 of Bill C-92 states that Indigenous children should not be apprehended solely based on socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of his or her parent or the care provider. While there is not yet case law on this point, this could suggest the mandatory duty to report may not be triggered with respect to an Indigenous child if the registrant's assessment of a possible need for intervention is based only on socio-economic factors.

Bill C-92 also affirms the inherent right to self-government of Indigenous peoples in Canada, and Indigenous legislative authority over child and family services. Section 22(3) of Bill C-92 provides that Indigenous laws supersede provincial law regarding child and family services in the event of a conflict between the laws. This means that the provincial CYFEA would not apply to an Indigenous child to the extent that the CYFEA contradicts the relevant Indigenous law. However, where both laws can be complied with, both should be followed.

In practice, this means that when an occupational therapist first starts working with an Indigenous child, they should ask for the name of the child's Indigenous governing body (this may be a First Nation or Band, or a Métis or Inuit governmental organization) in order to establish which government has jurisdiction for services (including child and family services) with respect to that child.

The federal government has created a website providing information on Indigenous laws related to child welfare: [Indigenous Child and Family Services Legislation](#). This can be used as a resource to help identify the applicable Indigenous law.

At the time of writing, three Indigenous governing bodies in Alberta have established laws that address child and family services. For example, the Louis Bull Tribe has passed a law that gives the [Asikiw Mostos O'pikinawasiwin Society](#) (AMO) authority over child and family services. Their legislation states that reports should be made to an Awasisahk Protection Worker:

10.1 Duty to Report

A person who has information that an Awasisahk is in need of protection will, without delay, report the matter:

10.1.1 To an Awasisahk Protection Worker; or

10.1.2 If an Awasisahk Protection Worker is not available, to the RCMP or an Authorized Person.

Where there is no Indigenous law relating to duty to report, or if you are uncertain who to contact and are concerned about the safety of a child, follow the CYFEA process and guidance provided on the Alberta Government website.⁴ Depending on the location of the child, you may be directed to the appropriate [Metis and Indigenous Children and Family Services office](#) or [Delegated First Nation Agency](#). Whether or not there is an applicable Indigenous law relating to the duty to report, the national standards established by Bill C-92 continue to apply. In emergency situations where an Indigenous child needs immediate intervention, you should call 911 to ensure the safety of the child.

Privacy Breaches

Registrants are required to report breaches of client's personal or health information to their employer, the client and to Alberta's Office of the Information and Privacy Commissioner as required or appropriate (*ACOT Standard I.7*).

The Office of the Information and Privacy Commissioner (OIPC) of Alberta provides information⁵ about when to notify the OIPC of a privacy breach in accordance with privacy legislation for organizations under the [Personal Information Protection Act](#) (PIPA) and custodians under the [Health Information Act](#) (HIA).

⁴ [How to help and report child abuse, neglect and sexual exploitation | Alberta.ca](#).

⁵ [How to Notify the OIPC of a Privacy Breach – Office of the Information and Privacy Commissioner of Alberta](#)

Unauthorized Use of Protected Titles

ACOT's Standard of Practice A.6 requires registrants to report unauthorized use of protected titles to ACOT. If a registrant becomes aware of someone, not qualified per the *Health Professions Act* or the [Occupational Therapists Profession Regulation](#), using the protected titles of occupational therapist, registered occupational therapist, or O.T. to represent themselves, the registrant must report it to ACOT. Further guidance is available in the Practice Resources section on the ACOT website regarding *Representing Title and Credentials*.

Reporting a Communicable Disease

ACOT registrants are required to comply with notification of communicable disease requirements as outlined in the *Public Health Act* (ACOT Standard A.11). Section 22(1) of the *Public Health Act* requires health professionals, who have reason to believe that a person under their care is infected with a communicable disease prescribed in the *Public Health Act* regulations, to notify a medical officer of health. If a registrant is concerned their client may have a communicable disease that has not already been reported by the client, their physician, nurse practitioner or midwife, the registrant can contact *Communicable Disease Control – Notifiable Disease* at 1-855-444-2324 for further guidance.

Reporting Unsafe Drivers

Everyone in Alberta is required to self-report any medical or physical conditions or changes in their health that may impact their ability to safely operate a motor vehicle. If a registrant becomes aware that a client has a medical or physical condition or change in health that should be reported, the registrant can direct their client to the self-report process available on the Government of Alberta website⁶. If a client does not or is unable to self-report, and a risk of harm to the client or the public is evident, the registrant may consider engaging a client's **care partner** or other health care provider such as their family physician or nurse practitioner to seek support for the client. ACOT's Code of Ethics expects that registrants will do so with integrity, respect and transparency (CoE B.1, B.7, D.3).

If a registrant intends to disclose their concerns about a client's fitness to drive to the client's care partner or other health care provider, the client's privacy must be

⁶ [Report a driver fitness concern - self-report | Alberta.ca](#)

considered, and relevant privacy legislation adhered to. The registrant may disclose their concerns to the client's care partner or health care provider without **informed consent**, in situations where the registrant is considered a custodian (or an affiliate of a custodian) under the *Health Information Act* (HIA), and if the registrant has reasonable grounds to believe that disclosing their concerns about the client's fitness to drive will avert or minimize a significant risk of harm to the health or safety of any person [see section 35(1)(m)(ii) of HIA]. For registrants working privately where HIA does not apply, the *Personal Information Protection Act* generally requires the registrant to obtain consent from the client prior to engaging care partners or others on the matter, except in situations of emergency that threatens the life, health or security of a person or the public⁷. In situations where the client does not consent, but the registrant continues to be concerned about the client's fitness to drive, the registrant can proceed with reporting their concerns to the government program as described below.

While Occupational Therapists are not required by law to report medically-at-risk drivers, they are expected to act with their client's and the public's best interest and safety in mind. If the OT's concerns regarding their client's ability to safely operate a motorized vehicle have not been mitigated through dialogue with the client, care partner(s) or other relevant health care providers, the OT is encouraged to report their concerns following the Government of Alberta's "Report a driver fitness concern" process⁸. Reporting includes providing the government with the name of the unsafe driver; any known medical or physical conditions that may affect safe driving; and the name, signature and phone number of the person making the report. Individuals making a report in good faith are protected against liability through section 60 of the *Traffic Safety Act*. Section 60.1 allows for confidential reporting where the reporting person's identity will be kept confidential unless that person has provided written authorization to release their identity.

In the **context** of a Driver Medical Fitness Review⁹ requested by the government, an ACOT registrant may be asked to complete an assessment that is in turn reviewed by the physician with the client. The physician can then determine whether to forward the results to the government to make a determination regarding the driver's fitness.

⁷ [Disclosing personal information | Alberta.ca](#)

⁸ [Report a driver fitness concern | Alberta.ca](#)

⁹ [Driver medical fitness review | Alberta.ca](#)

5. Documentation Expectations when Reporting

Registrants are encouraged to maintain a record of any reporting they make in response to requirements set out in legislation. When reporting is specific to a client/**patient**, document in the client record, keeping in mind how the information will be received by a client or others who read it (ACOT Standards E.1 and E.3). Take into consideration employer privacy and documentation policies. If the electronic medical record or health information system that is used supports maintaining the privacy and confidentiality of sensitive information, consider whether these features should be applied.

6. Appendix A: Relevant Clauses and Indicators in ACOT's Standards of Practice, Code of Ethics, and the Competencies for Occupational Therapists in Canada

While registrants must adhere to all ACOT Standards of Practice and Code of Ethics, some of the most relevant practice standards and ethical requirements are listed below in this section.

ACOT Standards of Practice

Standard	Applicable Section(s)
A. Accountability and Professional Responsibility	<p><i>1. Maintains current registration with the Alberta College of Occupational Therapists (ACOT) in accordance with the requirements outlined in the Health Professions Act (HPA), the Occupational Therapists Profession Regulation (OTPR), ACOT bylaws and applicable registration policies.</i></p> <p><i>2. Is knowledgeable of and practices in accordance with legislation relevant to their practice situation and ACOT's Standards of Practice and Code of Ethics.</i></p> <p><i>6. Uses protected titles in accordance with the HPA and the OTPR and reports unauthorized use of protected titles to ACOT.</i></p> <p><i>9. Reports to the complaints director of the relevant college, in accordance with section 127.2 of the HPA, if the registrant has reasonable grounds to believe that the conduct of</i></p>

Standard	Applicable Section(s)
	<p><i>another regulated health professional constitutes sexual abuse, sexual misconduct or the procurement or performance of female genital mutilation.</i></p> <p><i>10. Complies with all legal duties to report including, without limitation, any reporting requirements concerning children in need of intervention or the abuse of persons in care.</i></p> <p><i>11. Complies with notification of communicable diseases requirements as outlined in the Public Health Act.</i></p> <p><i>12. Reports to the Registrar without delay</i></p> <p><i>(a) any finding of personal professional negligence or malpractice;</i></p> <p><i>(b) if the registrant is found guilty of unprofessional conduct by another regulatory body; or</i></p> <p><i>(c) if the registrant is charged with or convicted of an offence under the Criminal Code.</i></p>
<p>B. Commitment to Equity in Practice</p>	<p>Full Standard, pages 21 & 22</p>

Standard	Applicable Section(s)
<p>E. Documentation and Record Retention</p>	<p>1. Documents truthfully, respectfully and in a timely manner, keeping in mind how the information documented in a client record will be received by a client or others who read it.</p> <p>3. Documents within the client record details of the service provision process such as the...</p> <p style="padding-left: 40px;">(i) other information a registrant deems is relevant to the service provision process.</p>
<p>I. Privacy and Confidentiality</p>	<p>3. Informs a client of the limits of confidentiality. Client information may be disclosed without client consent only if</p> <p style="padding-left: 40px;">(a) access to information and privacy legislation permits release without client consent;</p> <p style="padding-left: 40px;">(b) a legal duty to report obligation requires disclosure of information for client or public safety; or</p> <p style="padding-left: 40px;">(c) a registrant has reasonable and probable grounds to believe that disclosure of information without client consent is necessary to respond to an emergency that threatens the life, health or security of a person or the public.</p> <p>7. Reports breaches of a client's personal or health information to their employer, the client and to Alberta's Office of the Information and Privacy Commissioner as required or appropriate.</p>

ACOT Code of Ethics

Code	Ethical Responsibility
A. Responsibilities for Self	<i>4. Exercise independent judgment.</i>
B. Responsibilities to Clients	<i>1. Provide occupational therapy services that uphold the dignity of each client.</i> <i>7. Communicates transparently to clients the occupational therapist's obligations and constraints of funding sources, employers, or referral sources.</i>
D. Responsibilities to the Public and the Profession	<i>1. Maintain a level of professional conduct that does not</i> <i>(a) exploit or cause harm to others; or</i> <i>(b) diminish the public's trust in the profession.</i> <i>3. Act transparently and with integrity in all professional and business activities (e.g., fees and billing, contracts or terms of agreement with clients or contracting organizations, advertising of professional services, use of social media or other online platforms, response to any real or perceived conflicts of interest, etc.).</i>

Competencies for Occupational Therapists in Canada

- **Domain E: Professional Responsibility** (p.16)

Occupational therapists are responsible for safe, ethical, and effective practice. They maintain high standards of professionalism and work in the best interests of clients and society. The competent occupational therapist is expected to...

E1 Meet legislative and regulatory requirements.

E1.1 Respect the laws, codes of ethics, rules and regulations that govern occupational therapy.

E1.4 Protect client privacy and confidentiality.

E1.8 When observed, respond to and report unprofessional, unethical, or oppressive behaviour as required.

7. Appendix B: Relevant Legislation

Registrants are required to be knowledgeable of and practice in accordance with legislation relevant to their practice situation. It is beyond the scope of this guideline to address all the legislation relevant to reporting requirements. Below is a list of some legislation that may be relevant in your practice situation.

- *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24
- *Child Youth and Family Enhancement Act*, RSA 2000, c C-12
- *Personal Information Protection Act*, SA 2003, c P-6.5
- *Protection for Persons in Care Act*, SA 2009, c P-29.1
- *Health Information Act*, RSA 2000, c H-5
- *Health Professions Act*, RSA 2000, c H-7
- *Mental Health Act*, RSA 2000, c M-13
- *Public Health Act*, RSA 2000, c P-37
- *Traffic Safety Act*, T-6 RSA 2000