COLLEGE OF OCCUPATIONAL THERAPISTS OF MANITOBA

PRIVACY CODE

PREAMBLE

COTM is the regulatory organization for the profession in the province of Manitoba with a mandate to protect and serve the public interest.

The College has a long history in the province; COTM was established in 1971 with the enactment of the first *Occupational Therapists Act*. From 1971 to December 2005, COTM was known as the Association of Occupational Therapists of Manitoba (AOTM).

The members of the profession most often practise in environments where they are subject to the *Personal Health Information Act (PHIA)* in Manitoba and if in independent practice, to the federal *Personal Information Protection and Electronic Documents Act (PIPEDA)*. COTM is not subject to either piece of legislation.

As an organization that has a mandate to administer provincial legislation, ie *The Occupational Therapists Act*, COTM is in frequent contact with members of various government departments. Therefore, though COTM is not subject to the *Freedom of Information and Privacy Protection Act (FOIPPA)*, COTM representatives must be conscious of the possibility of having their communication with government officials subject to FOIPPA access to information requests.

The most critical guiding piece of legislation for COTM in the area of confidentiality and protection of privacy is found in section 62 of *The Occupational Therapists Act* which states:

> **62 Confidentiality of information**
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> Subject to section 62.1, every person employed, appointed or retained for the purpose of administering this Act, and every member of the council or a committee of the council, shall preserve secrecy about all information that comes to his or her knowledge in the course of his or her duties, and shall not communicate any information to any other person except
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> (a) to the extent the information is available to the public, or is required to be disclosed, under this Act;
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> (b) in connection with the administration of this Act, including, but not limited to, the registration of members, complaints about members, allegations of members' incapacity, unfitness, incompetence or acts of professional misconduct, or the governing of the profession;

(c) to a body that governs the practice of a health profession pursuant to an Act of the Legislature, to the extent the information is required in order for that body to carry out its mandate under the Act; or

(d) to a body that governs the practice of occupational therapy in a jurisdiction other than Manitoba.

DEFINITION OF TERMS

The following terms used in this Privacy Code have the meanings set out below:

"By-laws" means the by-laws of COTM

"College" means the College of Occupational Therapists of Manitoba, herein referred to as "COTM".

"Council" means the governing council of COTM

"Member" means a member of COTM

"OT Act" means *The Occupational Therapists Act*

"personal information" means information about an identifiable individual but does not include the name, title, or business address or telephone number of an individual.

"Privacy Officer" means the individual appointed to oversee compliance with this Privacy Code and is the Executive Director of COTM.

PRINCIPLES

Principle 1 – Accountability

The Executive Director, appointed by the Council, as the COTM Privacy Officer, is accountable for the compliance with these policies and procedures. Complaints and questions regarding the manner in which personal information is handled by COTM should be directed to the COTM Executive Director who can be reached at 957-1214, extension 5.

COTM will provide orientation and training to all new employees and appointees, as well as all members of the COTM council, committees and working groups regarding their obligations pursuant to the *OT Act* and this Privacy Code.

A copy of this Privacy Code is available on COTM's website at www.cotm.ca and upon request via e-mail to OTinfo@cotm.ca .

Principle 2 – Identifying Purpose

The purpose for which COTM collects, uses and discloses personal information is in the administration of *The Occupational Therapists Act*.

Information About Members

COTM collects and uses personal information (home addresses, personal and work contact information including phone numbers and email addresses, birthdates, health information, criminal history) regarding its members for the following purposes:

- To meet the requirements of *The OT Act* in registering members and investigating complaints
- To establish and maintain a COTM register and database of members
- To contribute to the OT Database maintained by the Canadian Institute of Health Information
- To provide to the Minister of Health as required under S 62 of *The OT Act*

Information About Volunteers

COTM collects and uses personal information (home address and other contact information) regarding its volunteers for the following purposes:

- To maintain up to date contact information to facilitate communication
- To review prospective candidates and appoint persons as required by *The OT Act*

Information About Employees

COTM collects and uses personal information (SIN, home address and other contact information, birth date) regarding its employees for the following purposes:

- To submit required source deductions to the Canadian Revenue Agency (CRA)
- To prepare Record of Employment
- To manage other Employee Policies (such as retirement dates)
- To be able to make contact during non work times in emergencies or on other necessary occasions

Information About the Public

COTM collects and uses personal information regarding members of the public (home addresses) for the following purposes:

- To make contact in the investigation of complaints

Specifying the Identified Purpose
Where practical, COTM will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected, either at the time of collection or after collection but before use.

COTM will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.

Principle 3 – Consent
COTM collects personal information for purposes related to the mandate of the college.
Wherever possible, COTM will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected as described in Principle 2.

COTM will request specific requests for consent to use and /or disclose personal information wherever possible.

Upon initial registration with COTM, a new member will be asked to provide consent to allow COTM:

- to release their personal information, in non identifying form to the Canadian Institute of Health Information (CIHI)
- to provide researchers, upon request, with home addresses in the form of mailing labels
- to direct research invitations to members via a selected e-mail address
- to direct third party information relevant to a regulatory mandate to members via a selected e-mail address or a home address

Principle 4 – Limiting Collection
COTM collects only the personal information that is required for the purposes identified in Principle 2 of this Privacy Code and for purposes that arise in the administration of *The Occupational Therapists Act*. COTM collects personal information using procedures that are fair and lawful.

Principle 5 – Limiting Use, Disclosure or Retention
COTM uses personal information only for the purposes identified in Principle 2 and permitted under Section 63 of *The OT Act* or required in the administration of *The OT Act*.

Principle 6 - Accuracy
It is in the best interest of COTM and its members that COTM collects, uses and discloses only accurate personal information. COTM therefore uses its best efforts to ensure that the information it collects, uses and discloses is accurate.

Members are required to provide COTM with current name, contact and employment information, other demographic and other disclosures and are urged to advise COTM of changes within thirty (30) days of any change. The information is updated annually when members renew their membership with COTM.

Principle 7 – Safeguards
COTM ensures that personal information it holds is secure.

COTM ensures that personal information is stored in electronic and physical files that are secure. Security measures are in place to safeguard this information which includes restricting access to personal information to authorized personnel, insuring the physical files are under lock and key and ensuring that electronic files are password protected. COTM reviews its security measures periodically to ensure that all personal information is secure.

Staff of COTM receives an orientation and ongoing review regarding the safeguards required for personal information and their importance.

Principle 8 – Openness
This Privacy Code will be posted on the COTM website at www.cotm.ca
Inquiries concerning COTM's practices for collecting, using and disclosing personal information may be directed to the Executive Director.
Inquiries may be directed to the Executive Director at the office in a variety of ways:

College of Occupational Therapists of Manitoba
P.O. Box 46032
Winnipeg, Manitoba R3R 3S3
Phone: 1-204-957-1214 or 866-957-1214
E-mail: OTinfo@cotm.ca

Principle 9 – Individual Access
Access
Where COTM holds personal information about an individual, upon written request, COTM will allow access to the information to that individual, unless it is impractical or impossible for COTM to retrieve the information.

Access may be denied if the information contains references to another individual(s) that cannot be severed or the request is deemed to be frivolous, vexatious, made in bad faith or otherwise an abuse of the process.

In cases where the personal information forms part of a record created by another organization, COTM may refer the individual to the organization that created the record (unless it is considered inappropriate to do so) in order for the individual to obtain access to the personal information from the organization rather than from COTM.

While COTM's response will typically be provided at no cost or minimal cost to the individual, depending on the nature of the request and the amount of information involved, COTM reserves the right to impose a cost recovery fee. In these circumstances, COTM will inform the individual of the approximate cost to provide the response and proceed upon payment by the individual of the cost.

COTM will make every effort to respond to the request within thirty days and to assist the individual in understanding the information.

Individuals should send their written request for access, with contact information and sufficient information about themselves to identify them, to the Executive Director.

In the event that COTM refuses to provide access to all of the personal information it holds, then COTM will provide reasons for denying access. The individual may then choose to file a complaint with the Executive Director (aka COTM Privacy Officer).

<u>Challenging accuracy and completeness of personal information</u>
An individual has the right to request a correction of what, in his or her view, is erroneous information. Where the information forms part of a record created by another organization, then COTM will refer the individual to the organization that created the record (unless it is inappropriate to do so) in order that the individual may challenge the accuracy or completeness of the information.

Where an individual is able to successfully demonstrate that the personal information of a factual nature is inaccurate or incomplete, COTM will amend the information (i.e. correct, or add information). In addition, where appropriate, COTM will notify any third parties to whom COTM has disclosed the erroneous information.

Where there is a dispute between the individual and COTM as to the accuracy or completeness of the information, then COTM will document the details of the

disagreement, and, where appropriate, advise any third party who received the contested information from COTM, of the unresolved disagreement.

Principle 10 – Challenging compliance
Complaint or questions regarding COTM's compliance with this Privacy Code should be directed to the Executive Director.

If the Executive Director cannot satisfactorily resolve a complaint, COTM has a formal privacy complaints procedure which includes:

- acknowledging the complaint
- referring the complaint to COTM's Executive Committee
- providing a written decision and reasons to the complainant; and
- taking appropriate measures where the complaint is found to be justified.

OVERSIGHT: This policy is under the direction of the Executive Committee.
ACCOMPANYING DOCUMENTS: *The Occupational Therapists Act*
APPROVED: October 12, 2010