



College of Chiropractors of Ontario

# INFORMATION FOR WITNESSES

## Discipline Committee Hearings



**Regulating Chiropractors and Podiatrists in Ontario**

[www.cocoo.on.ca](http://www.cocoo.on.ca)

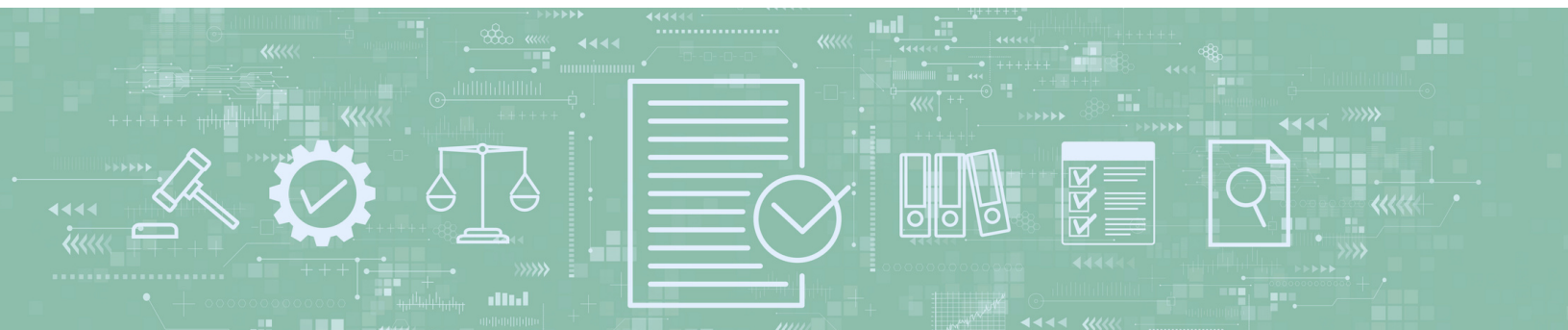
This guide helps a person understand what to expect when appearing as a witness at a hearing of the College's Discipline Committee. Your testimony, meaning the information you will be asked to share at the hearing, will help the College protect the public. Your cooperation as a witness is very important in helping the College ensure that chiropractors and podiatrists provide the safest treatment to their patients.



A **witness** is a person who has some direct knowledge or information about an issue or matter and who agrees to answer questions truthfully about that issue or matter at a hearing.

A **hearing** is a legal process, like a trial in court, where witnesses are questioned by lawyers about the information they have. This information is important to help the **panel**, meaning the people at the hearing who must make a decision about the registrant, and understand the matter they are deciding.

A **member** or **registrant** means a chiropractor or podiatrist who has a certificate with the College allowing them to treat patients in Ontario.



## What is the College of Chiropodists of Ontario?

The College of Chiropodists of Ontario (COCOO) is responsible for ensuring that chiropodists and podiatrists in Ontario practice footcare safely. The College's role is to protect the public. This means that the College works to ensure chiropodists and podiatrists meet acceptable standards of practice when they are providing patient care.

## Why is there going to be a Hearing?

After receiving a complaint or report, the College's committee known as the Inquiries, Complaints and Reports Committee (ICRC) investigates a matter. It may ask a panel of the Discipline Committee to hold a hearing to make a decision about the complaint or report. The ICRC will do this if it believes a registrant has acted in a manner the College might consider unprofessional or where the College is concerned that the registrant does not have the skills, knowledge, or judgment to properly treat patients. A panel of the Discipline Committee will then hold a hearing to hear directly from witnesses about the registrant's practice.

## What is a Hearing?

A hearing is a formal legal process that will lead to a decision about a registrant. A panel of the Discipline Committee listens to information from witnesses (also called evidence) about a registrant's practice and decides whether the registrant has done something or not done something that has put the patients they treat or may treat at real or possible risk of harm. The formal way this is described at the hearing is whether the registrant has committed professional misconduct or is incompetent. If the panel decides that the registrant has committed professional misconduct or is incompetent, the panel will order a penalty against the registrant.



## What is a Panel?

A panel is usually made up of three to five members of the Discipline Committee — at least one member of the public and two professional members who are chiropractors or podiatrists. Discipline hearings at the College are usually open to the public and media. Sometimes a panel may decide that all or part of a hearing must be held privately, meaning closed to the public, or that there be a publication ban on the name of a person/persons involved in the hearing. This may be done to protect the safety or privacy of a patient or witness involved in the hearing.

## Where are hearings held?

Hearings are usually held virtually by Zoom or another videoconferencing platform. It is possible that a hearing will be held in-person. The College will provide you with details about how to attend the hearing before the hearing date.

## Why am I being called to testify?

The purpose of the discipline hearing is to provide the panel of the Discipline Committee with all the information it needs to make a decision about the registrant. Witnesses are called by the College because they have information the College expects will help the panel to understand important facts it will need to make a decision.



## WHAT TO KNOW BEFORE THE HEARING

### How can I prepare for the hearing?

The College's lawyer will help prepare you for the hearing. It is important to understand that the College's lawyer is not your lawyer. The job of the College's lawyer is to present a case against the registrant to the panel of the Discipline Committee. The College's lawyer will meet with witnesses to ensure they understand what is needed from them as a witness.

If you have any questions about the process, please contact the Manager, Professional Conduct and Hearings, or ask the College's lawyer.

If you have any special needs, such as help getting to and from the hearing, or an interpreter, or if you have a health concern that you feel might prevent you from attending the hearing, please contact the Manager, Professional Conduct and Hearings as soon as possible.

### Who will pay my costs?

**Accommodation:** The College will arrange and pay for a hotel if you must stay overnight for the hearing. Please contact the Manager, Professional Conduct and Hearings to ask any questions you may have about your needs.

**Travel:** The College will pay you for your costs getting to and from the hearing, if the hearing is in-person. Costs may include flying by plane or taking a train, bus or car. The College pays 50 cents for each kilometer travelled in a car. The College may also pay other travel costs. There are not usually any travel costs for a witness who attends a virtual hearing. Please contact the Manager, Professional Conduct and Hearings to ask any questions you may have.

**Attendance Allowance:** You will be paid \$50 each day to attend the hearing. The College will also pay for your meals and other costs. This is the same amount paid if you were a witness at a court hearing.

**Loss of Wages and Other Costs:** The College does not usually pay a witness for any wages lost while attending a hearing but may consider special circumstances. If you have concerns about this or any other cost, please contact the Manager, Professional Conduct and Hearings.





## WHAT TO KNOW BEFORE THE HEARING

### How do I get paid my costs by the College?

Please send your receipts to the Manager, Professional Conduct and Hearings. Your costs will be paid to you about one month after the College receives your receipts.

### What should I wear?

Discipline hearings are formal legal proceedings. The Discipline Committee panel and other participants will be wearing business clothing such as a suit or dress. You should dress in a way that you feel comfortable and confident that shows respect for a formal legal process.



### Can I be summoned to attend the hearing?

A summons is a legal document that requires a person to attend a hearing. The *Statutory Powers Procedure Act* gives the Discipline Committee the power to summon (order) witnesses to attend the hearing. A summons is usually sent to the home address of the College's witnesses. This means that a witness must attend the hearing. If the hearing is being held virtually, virtual attendance by the witness is acceptable. If the hearing is in-person, the witness must attend in-person.



BEFORE THE HEARING

## WHAT WILL HAPPEN WHEN I TESTIFY?



Testifying is when a witness answers questions at a hearing that are asked by lawyers about the information the witness has direct knowledge of. Before a witness testifies, they will not be allowed into the hearing.

**Start of Testimony:** When you are called to testify, you will be brought into the hearing room and shown where to sit. In a virtual hearing, you will be connected to the hearing and will be in a virtual waiting room while you wait to enter the virtual hearing. The panel chairperson will introduce themselves and the panel members. The registrant whom the hearing is about may also be in the room. The registrant will not be allowed to speak to you directly or ask you questions when you attend the hearing.

**Affirmation:** The panel chairperson will ask you to affirm (a promise to tell the truth) that your testimony will be truthful. He or she will also ask you to speak loudly, clearly, and slowly so the court reporter can correctly record your answers.

**Examination-in-chief:** The College lawyer (who also may be called the prosecutor) will ask you questions. The College lawyer will review these questions with you before your testimony at the hearing. The purpose of the questions is to get information you have that will help the panel make a decision about the registrant. The first questions asked will allow the panel to know your name and information about you, including your connection to the registrant and the issues at the hearing.

## WHAT WILL HAPPEN WHEN I TESTIFY?



**Cross-examination:** Once the College lawyer is finished asking questions, the registrant's lawyer (also known as the defence counsel) may ask you questions. These questions may be more direct than those asked in the examination-in-chief. The role of the defence counsel is to clarify information, test your memory and raise any concerns about the information you provided.

**Re-examination:** After the cross-examination is done, the College's lawyer may have some further questions to ask you. The panel may also ask questions.

**Support Person:** You may bring a support person with you when you are a witness. This may be a counsellor, a friend, or a family member. It is important to understand that the support person cannot speak with you while you are testifying (giving evidence as a witness) and cannot coach you or talk to you about your evidence while you are on a break from testifying.

**Using notes or documents during the hearing:** If you made notes about an incident, bring them with you to the hearing. You may need the notes to help your memory when you testify. The College's lawyer will discuss the use of your notes with you. If you cannot find your notes or a record or document that is being asked about during your testimony, let the College's lawyer know, and the Manager, Professional Conduct and Hearings will help you locate it.



## WHAT WILL HAPPEN WHEN I TESTIFY?

### General Information

There will be scheduled breaks in the morning, afternoon and at lunchtime during the hearing. If you need a break during your testimony, let the panel chair know and they will arrange for a short break. If your testimony is interrupted by a break, or you are unable to finish your testimony by the end of the day, the panel chairperson will tell you not to talk about your testimony with others.

There might be times during your testimony when the lawyers need to argue a legal point before the panel. You will be asked to leave the hearing if this happens, and you will return to the hearing once the lawyers are done.

Once your testimony is done, you may stay for the rest of the hearing. Please let the College lawyer know if you want to stay. Sometimes, a witness may be asked not to stay for the rest of the hearing if that witness must testify later in the hearing.

**After your testimony:** Sometimes a witness is asked to return to answer more questions. If you are asked to return, the Manager, Professional Conduct and Hearing or the prosecutor will contact you to help with your return to the hearing.



## WHAT HAPPENS AFTER THE HEARING?

After the hearing, the discipline panel will discuss and determine, based on the information (evidence) it heard, if the registrant has committed professional misconduct and/or is incompetent. This is called “deliberation”. The deliberation process can take time as the panel must carefully review all the information that was given during the hearing. If the panel finds that the registrant has committed professional misconduct and/or is incompetent, the College will schedule additional hearing dates to hear from the lawyers about the penalty to the registrant.

At the end of the hearing and the deliberation process, the panel will write its decision and will explain the reasons for the decision. If you are a complainant, meaning a person who brought a complaint about the registrant to the College’s attention, you will receive a copy of the panel’s decision. A witness who is not a complainant will not receive a copy of the decision.

### How can I find out the panel’s decision?

Information about the panel’s decision is available in these places:

- the College’s public register contains the results of hearings in cases where there has been a finding of professional misconduct and/or incompetence and certain penalties were ordered;
- the College’s website has panel decisions of the Discipline Committee; and
- COCOO Discipline Committee decisions are also posted on [www.canlii.org](http://www.canlii.org).

### What penalties can the panel give?

The panel can order one or more of these penalties against a registrant:

- revocation of the registrant’s certificate of registration. This means taking away the registrant’s ability to treat patients;
- suspension of the registrant’s certificate of registration. This means taking away the registrant’s ability to treat patients for a period of time;
- terms, conditions or limitations on the registrant’s certificate of registration. This means that the College will limit how the registrant may treat patients or the services they may offer patients. It may also mean that the registrant must be supervised by another healthcare professional while treating patients;
- a fine, meaning an amount of money paid by the registrant; and/or
- requiring the registrant to meet with the panel to be reprimanded. This means the panel will meet with the registrant to talk about their concerns with the registrant’s behaviour and their expectations of the registrant.